

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2007 OF 2022

Shakti Keshav Avghade

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

NILAM
SANTOSH
KAMBLE

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Mr.K.S. Patil i/b Ms.Saili Dhuru, for the Applicant.
Ms.Anamika Malhotra, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th AUGUST 2023

P.C:-

. By this Application, the Applicant is seeking bail in Crime No.22 of 2022 registered with Kalwa Police Station, Thane for the offence punishable under Section 376, 307, 324, 342, 394, 504, 506(2) and Section 34 of the Indian Penal Code ('IPC' for short).

2. The informant has lodged complaint against the Applicant at Kalwa Police Station alleging that she got acquaintance with the Applicant, as they were neighbour. The

Applicant is a driver by profession and stays with his mother i.e. the Accused No.2 and he used to drop the Complainant at her work. In July 2021, the Applicant came to her house and she had prepared meal for him and they had their meal together. The Applicant had brought falooda from the market after having falooda, she started feeling dizziness in her head and she slept, Applicant had forcibly sexual assaulted her. When she woke up in the morning, she found that she and Applicant were without clothes.

3. The Applicant threatened her to viral the nude images of her on social media if she discloses the same to any other person. The Applicant advised her to get marry with him, but the mother of the Applicant refused it. Again the Applicant started contacting the victim but she ignored, then Applicant threatened to viral nude images immediately so she made sexual relation with him. Thereafter, victim started living together with the Applicant and co-accused i.e. mother of Applicant. But when victim asked for marriage Applicant and her mother refused. It is

further alleged that on 10th January 2022, the victim realised that she was pregnant, she asked for marriage, mother of the Applicant told that do not make hurry. The victim threatened of a police complaint to Applicant, then they got angry and beaten her. On 12th January 2022, the Applicant had quarrel with the relatives of the victim. Thereafter, on 18th January 2022, victim tried to escape from the clutches of the Applicant and co-accused, the Applicant caught her and beaten her and confined her in room. On 20th January 2022 the victim was allowed to go out only on condition that she would not disclose the same to anyone. Thereafter, victim was lodged complaint against the Applicant and co-accused.

4. It is contention of the learned counsel for the Applicant that Complainant is Police Constable. There was consensual sexual relations between Applicant and Complainant. There is inordinate delay in lodging the FIR and it is alleged that first incident was happened in the year 2021 whereas the FIR was lodged on 20th January 2022. The Applicant is behind the bar

more than 18 months. He is sole bread earner of the family. The investigation is completed and charge-sheet has been filed. Hence, requested to allow the Application.

5. It is contention of the APP is that specific allegations made against the Applicant, he had sexually assaulted the Complainant, he had made video shooting of the said act. The Applicant had given promise of marriage to the Complainant but it was not fulfilled. Even Applicant tried to kill the Complainant it shows *prima facie* case. Hence, requested to reject the Application.

6. I have heard both learned counsel.

7. The allegations against the Applicant are that he made first sexual assault on Complainant in July 2021 and FIR was lodged on 20th January 2022. There is more than one year delay in lodging the FIR. The Complainant is Police Constable. She was 36 years old at the time of the incident. She knew the

consequences of the act. Applicant is behind bar since more than 18 months. His further detention is not required.

8. In view of above, I pass following order.

ORDER

(i) The Applicant be released on bail in Crime No.22 of 2022 registered with Kalwa Police Station, Thane on furnishing PR bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Kalwa Police Station, Thane once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)