



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2709/2023

SHIVAJI RAOSAHEB AHIRE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

None for the applicant.

Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 3, 2023.

P.C. :

1. This is an application for bail in respect of the offence punishable under Sections 376, 377 of the Indian Penal Code (hereafter 'IPC' for short) registered on 24/12/2022 vide C.R. No.1186/2022 with Powai Police Station.

2. None for the applicant.

3. With the assistance of learned APP for the State I perused the statement of prosecutrix.

4. Learned APP while opposing the application for bail submitted that on false pretext of marriage the applicant had sexual physical relations with the prosecutrix.

5. The First Information Report (FIR) was registered on

24/12/2022. As per the statement of the prosecutrix, she was then married and having two children, was staying separately from her husband. The prosecutrix in her statement stated that she was in relationship with the applicant from 2017 to 2022.

6. *Prima facie*, in my opinion, the parties appear to be in consensual relationship. The investigation is complete. The charge-sheet has been filed. The applicant was arrested on 23/1/2023 and now is in custody for more than nine months with no possibility of the trial concluding any time soon. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. In the facts and circumstances of the present case, any further incarceration can only be by way of a pre-trial punishment. The applicant will face the consequences post trial if the charges against him are proved. The applicant can be enlarged on bail by imposing conditions. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Shivaji Raosaheb Ahire in connection with C.R. No.1186/2022 registered with Powai Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Powai police station, once in three months on the 1st Monday of the concerned month, between 11.00 a.m. and 1.00 p.m. till the trial concludes, commencing from December, 2023.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) The applicant shall not make any attempt to contact the victim.

(g) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(h) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter jurisdiction of Powai Police Station after being released on bail, till the trial concludes subject to such modification by the trial Court.

(i) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(j) The applicant shall surrender his passport, if any, to the investigating officer.

7. The application is disposed of.

(M. S. KARNIK, J.)