

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3302 OF 2022

1] Ashutosh Ashok Tamhane
2] Pradeep Sambhaji Tamhane ... Applicants
Versus

The State of Maharashtra and another ... Respondents

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Mr. Kuldeep Patil instructed by Ms. Saili Dhuru for the Applicants.
Mr. S.S. Hulke, APP for the State.
Ms. Sangeeta Patil alongwith Mr. Rajendra Tajane for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATED : 7 JANUARY 2023

P.C. :-

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicants came to be arrested in Crime No. 115 of 2022 registered at Karjat Police Station, Raigad for the offence punishable under Sections 376-D, 354-D of Indian Penal Code (IPC), Sections 4, 8, 13, 14 of the Protection of Children from Sexual Offences Act, 2012 and Sections 66 and 67 of the Information Technology Act, 2008.

3. I have heard the learned Counsel for the applicants, the learned APP for the State and the learned Counsel for the respondent No.2.

4. There are in all ten accused. According to the prosecutrix, in May 2021, the co-accused – Rutik Thorve contacted her on her instagram account and thereafter they started chatting with each other. After few days, he told her to send her nude photographs and videos. According to the prosecutrix, she refused. However, she alleges that as Rutik Thorve threatened her to show their chatting to her family members, she got frightened and was compelled to send her nude photographs and video to him. According to the prosecutrix, Rutik Thorve then told her that he wants to meet her but when she refused to meet him, he threatened her that he would circulate her nude photographs and video to his friends. In spite of it when she refused to meet him, he stopped chatting with her.

5. According to the prosecutrix, after few days she got message from co-accused Chaitanya Thorve on her instagram account and he told her that he is having her nude photographs and video. He told her to meet him or else he would make her photographs and video viral. There are allegations of sexual assault, against him as according to the prosecutrix, when she met him, he touched her private parts.

6. According to the prosecutrix, after few days the co-accused - Somesh Thorve contacted her, on her instagram account and told her that he is having her nude photographs and video. He too asked her to meet him. However, according to her, she did not meet him.

7. According to the prosecutrix, after few days another co-accused Jitendra Deshmukh contacted her on her instagram. He then made video call to her. According to the prosecutrix, he told her that he is having her nude photographs and video and told her during video call to remove her clothes or else he would make her nude photographs and video viral. According to the prosecutrix, she got frightened and removed her clothes.

8. The allegations against the present applicants are that, they too contacted the prosecutrix through instagram. It is alleged against the applicant Ashutosh Tamhane that during video call he compelled the prosecutrix to remove her clothes, recorded the said video call and forwarded it to the prosecutrix. As regards applicant Pradeep Tamhane, it is alleged that he had forwarded the video clip prepared by applicant Ashutosh Tamhane to the prosecutrix and had asked her whether she would be willing to have sexual intercourse with her. According to the prosecutrix, she thereupon had blocked the accounts of both the applicants. However, there are no allegations of sexual assault against the present applicants. Though according to the prosecutrix some of the accused subjected her to sexual assault, however, on her own she never disclosed about it to her parents. The report came to be lodged only when somebody told her uncle in some social gathering about her nude photographs and video. The applicants are in jail for about one year, I am therefore inclined to release the applicants on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicants be released on bail in Crime No. 115 of 2022 registered at Karjat Police Station, Raigad for the offence punishable under Sections 376-D, 354-D of Indian Penal Code, Sections 4, 8, 13, 14 of the Protection of Children from Sexual Offences Act, 2012 and Sections 66 and 67 of the Information Technology Act, 2008 on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.
- (iii) The applicants shall not stay at Village : Gaurkamat, Tal :Karjat, District : Raigad till the conclusion of trial and shall seek permission of the trial court if they are required to enter into the limits of the said village.
- (iv) The applicants shall furnish their residential address where they are going to reside after their release to the Investigating Officer.

(N.R. BORKAR, J.)

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
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