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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1893 OF 2024

Saket Abhiraj Jha ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

Mr. Jyotiram S. Yadav for the Applicant.
Mr. Tanveer Khan, APP for Respondent No.1-State.
Ms. Mamta Hasrajani for Respondent No.2.

CORAM: MANISH PITALE, J.
DATE : 14th JUNE 2024

P.C. :

. Heard learned counsel for the applicant, learned APP for respondent-State and learned counsel appearing on behalf of respondent No.2 (victim).

2. The applicant was arrested on 2nd November 2023, in connection with FIR No. 0728 of 2023, dated 1st November 2023, registered with Kashimira Police Station, Mira-Bhayander, Vasai-Virar, for offences under Sections 376, 376(2)(n), 377, 384, 323, 504, 506, 500 of the Indian Penal Code (IPC) and Section 67 of the Information Technology Act, 2000 (IT Act).

3. The FIR was registered on the basis of the statement dated 1st November 2023 of respondent No.2, wherein she stated that in October 2022, the applicant had forcibly made respondent No.2 drink alcohol and thereafter, he had forcible physical relationship

with her, allegedly taking her nude photographs and making videos. It was alleged that on 28th November 2022, the applicant again repeated such acts and thereafter, he threatened her and took amount of about Rs.75,000/-. It is further alleged that the applicant placed the mobile number of the respondent No.2 on social media, calling her in obscene manner, which resulted in unknown persons contacting the respondent No.2 and sending obscene messages. On that basis, it is alleged that from October 2022 to November 2022, the respondent No.2 suffered the aforesaid harassment at the hands of the applicant.

4. The learned counsel for the applicant submits that the applicant was in a relationship with respondent No.2 and due to misunderstanding, the FIR was registered against him. It is submitted that the applicant has remained behind the bars since 2nd November 2023 and in the interregnum, the applicant and the respondent No.2 have resolved their differences, which is a factor this Court may take into consideration, although, charge-sheet has been filed on 28th November 2023.

5. The learned APP has opposed the prayer made in the present application, submitting that serious allegations have been made against the applicant. It is submitted that amongst other offences, an offence under Section 377 of the IPC is also registered. The applicant placed the mobile number of the respondent No.2 on social media, resulting in obscene messages being received by her.

Such acts ought not to be condoned, even if the applicant and respondent No.2 claim that their differences have been resolved.

6. The learned counsel for the respondent No.2 has tendered an affidavit of the said respondent and she submits that this Court may consider the contents of the said affidavit. The same is taken on record and marked 'X'.

7. In the said affidavit dated 14th June 2024, the respondent No.2 has stated that the applicant is her friend and that the differences between them have been resolved. She has also stated that she desires to withdraw the complaint against the applicant and she has no objection if the applicant is released on bail, subject to specific conditions mentioned in the paragraph 6 of the affidavit.

8. The material on record, particularly, the statement leading to the registration of the FIR shows that very various serious allegations are made against the applicant. The offences registered against the applicant are very serious and perhaps for this reason, investigation was completed expeditiously and charge-sheet was filed on 28th December 2023. The material on record *prima facie* does show the involvement of the applicant in the serious offences.

9. But, it appears that the applicant and respondent No.2 were in a relationship or that they were friends as claimed by the

respondent No.2 in the aforementioned affidavit. It is stated that the differences between them have been resolved and the respondent No.2 has no objection if bail is granted to the applicant, subject to certain conditions.

10. Looking to the serious allegations made against the applicant, this Court was reluctant to consider the present application favourably, as the learned APP correctly points out that in the face of such serious allegations and sufficient material to connect the applicant with such allegations, bail ought not to be granted. But, considering the said affidavit of the respondent No.2, which has been taken on record, this Court is inclined to allow the application, subject to appropriate conditions including the specific conditions insisted upon by the respondent No.2.

11. In view of the above, the application is allowed in the following terms :

(a) The applicant shall be released on bail in connection with FIR No.0728 of 2023, dated 1st November 2023, registered with Kashimira Police Station, Mira-Bhayander, Vasai-Virar, on furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount.

(b) The applicant shall report to the Kashimira Police Station, Mira-Bhayander, Vasai-Virar, on every 1st

Monday of each month between 10:00 a.m. and 12:00 noon, during the pendency of the trial. The applicant shall attend the trial Court on each and every date, unless specifically exempted by the trial Court.

(c) The applicant shall not make any attempt to contact the respondent No.2 directly or indirectly, whether in person, through electronic means, or through any third party.

(d) The applicant shall not enter the jurisdiction of Kashmir Police Station, except for reporting before the said Police Station in terms of the direction given hereinabove.

(e) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.

(f) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with update in case of any change.

12. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this

order are limited to the disposal of the present bail application. The trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application is disposed of.

14. Before parting with the present application, it would be appropriate to note that in urban areas like the city of Mumbai, very often such cases are before the Court where a relationship having gone wrong between two adult individuals, results in initiation of criminal proceedings. The valuable time of the Police, which can be otherwise utilized in investigating serious offences, is wasted in carrying out investigation in such cases. With passage of time, the alleged victim and the accused come together, having resolved their differences and then the victim gives consent for grant of bail and even for quashing of such proceedings. This results in valuable time of the Court also being wasted.

15. This Court is of the opinion that in such cases a robust mechanism ought to be developed for imposing heavy costs on such individuals who end up wasting the time of the Investigating Authority as well as the Court. In an appropriate case, this Court shall proceed to pass such an order.

MANISH PITALE, J.