



IN THE COURT OF SESSION AT GREATER BOMBAY

**CRIMINAL BAIL APPLICATION NO. 1155 OF 2022
(CNR NO.MHCC02-006352-2022)**

Gaurav Maruti Mahadik) ... Applicant

Versus

The State of Maharashtra)
(Through Worli Police Station)) ... Respondent

Ld. Adv. Vinay Kate for Applicant.

Ld. APP. Kalpana Hire for State / Respondent.

**CORAM : HER HONOUR THE ADDITIONAL SESSIONS
JUDGE SMT. SANJASHREE J. GHARAT
(C.R. NO. 39)**

DATED : 25.05.2022.

ORDER

1. This is an application for bail u/s. 439 of Cr.P.C. in C.R. No. 02 of 2022 registered with Worli Police Station for the offences punishable under Sections 377, 498-A, 506 of I.P.C.

2. As per FIR, the first informant got married with Accused on 06.10.2017. The Accused was working on Ship. Therefore, he used to remain on Ship for eight months and used to come on leave for four months. The complainant joined Police Department as Ladies Police Constable in the year 2010. It is alleged that on 3rd day of marriage the Accused found chatting with his girlfriend about the physical relation with the complainant. Therefore, complainant objected for the said

chatting. On which, Accused beat her and assaulted her. However, the complainant being newly married she had not disclosed the incident to anybody. Thereafter, the Accused went to out of country for work. He started taking suspicion about the character of the complainant. The Accused also started insisting the complainant to share her nude photographs. Thereafter, the Accused came to India on 24.06.2018. The Accused used to show the porn videos and used to insist to perform as per the said video and for unnatural sex. On refusal he used to give threat to divorce her. The Accused compelled the complainant for unnatural sex repeatedly.

3. It is further alleged that once complainant was taking bath she found the Accused kept the mobile for charging. She found the camera on. The complainant therefore, inspected the mobile of accused found her videos in the said mobile while taking bath. In addition to the same she also found eight videos taken by the Accused without her knowledge while committing sexual intercourse. The said videos are taken by the Accused without knowledge of the complainant and without her consent. Therefore, she confronted the said fact to the Accused. On which Accused replied that he being her husband he is having every right and she can't object. Thereafter, the Accused again went to work in October-2018. However, the Accused kept on picking up quarrel with the complainant. He started putting the photographs of inner-wear of complainant on whatsapp status and used to put led caption. Moreover, he started giving threats to viral the video available in his custody. Therefore, the complainant filed the complaint against the Accused.

4. The Applicant / Accused claims bail on the ground that he

is falsely implicated in the present offence. It is submitted on behalf of the Accused that the dispute between the parties is arising out of matrimonial dispute and is of civil nature. He submitted that both of them already filed Petition before the Family Court, Bandra for divorce by mutual consent. In the said Petition, the complainant agreed to withdraw all civil and criminal cases. But still the present complaint is filed. It is submitted that the present complaint is filed to pressurize the Accused to sign the Affidavit having incriminating contents. The Applicant further submitted that he is ready to abide the conditions of bail. Moreover, the I.O already seized his mobile and laptop.

5. The Prosecution has raised objection to grant bail by filing Say. It is submitted on behalf of the prosecution that the Accused is working at Noregian Cruise Line. Therefore, if the bail is granted to the Accused, there is every possibility that Accused will leave the India and it will be difficult to secure his presence. It is further submitted that the Accused after causing mental harassment pressurized the complainant to file the Divorce Petition by mutual consent. So also, the Accused saved the videos of their intimate relation, unnatural sex in the various devices. Therefore, if bail is granted the accused will tamper with the prosecution evidence.

6. The first informant appeared in the matter and filed written objection as per terms or prosecution story. Heard both the parties.

7. The dispute between parties arising out of matrimonial relation. But it is not matrimonial dispute in strict sense. It is the grievance of the complainant that the Accused made the video

recording without her knowledge and consent while they were having intimate relation. Moreover, the Accused forced her for unnatural sex and also done video recording of the same. It is further grievance of the complainant that Accused also done video recording while she was taking bath in his mobile under the pretext of keeping the mobile for charging. The complainant is having audio conversation with the Accused requesting to delete all the said videos in her presence. However, the Accused is replying that at present he do not have any video. The Accused not denying the existence of any such video. The complainant also produced the screenshot of whats app status of Accused. The complainant also pointed out the said whats app status in which the Accused displayed the nicker of complainant and put lewd captions as follows :-

1. Aajch night dress --- can be seen by only person ----n that person knows very well.
2. Ye raat Saheli sang ---
3. Aajchi mi ghatleli ---- tuzi chaddi.
4. Dokyaha bhosada karnya peksha saral kai te sangav---

8. The complainant appeared in the matter and submitted that due to such type of status displaying her nicker and putting lewd remarks, the Accused is defaming her in society. Moreover, the Accused is in possession of objectionable videos, which he refused to delete in her presence. The complainant is apprehending that the Accused will misuse the said video. No doubt, the Accused is married with the complainant. However, he can not treat her like his private property. He should respect her dignity and womanhood. The Accused done the

video recording while they were intimate and while complainant was taking bath without knowledge and consent of the complainant. In audio recording the complainant confronted the said fact to the Accused that said video recording is done without her consent. She also requested to delete the said video recording in her presence so that the apprehension in her mind about misuse of the said video will come to an end and they can proceed further about their decision of dissolving marriage by mutual consent. As stated earlier, the Accused not denies in the said communication that he never took any video. However, he claims that at present he do not have any such video. There is basis for apprehension of complainant. Moreover, by displaying the nicker of complainant on whats app status, the Accused is defaming the complaint in the eyes of public at large. Therefore, even though the dispute appears matrimonial, the conduct of Accused is objectionable. The Advocate for the Accused claims that the complainant gave threat of filing complaint. However, the complainant adduced the prima-facie evidence regarding her apprehension that Accused will make misuse of objectionable video available with him. By displaying the nicker of complainant on whats app status, the Accused is proceeding in the same direction. Therefore, in order to recover the said objectionable videos, the anticipatory bail application filed by the accused was rejected. It is necessary to verify all the possible devices in which Accused can store the said videos. It is submitted on behalf of the Accused that he took Laptop and mobile to the Police Station. However, nothing was found in the said devices. It cannot be expected that Accused will on his own will carry the incriminating evidence against him while visiting the police station. It is submitted on behalf of the Complainant that Accused got another laptop and mobile to the police station at the time of inquiry. Therefore, the earlier Application filed for grant of Anticipatory

Bail and thereafter Application filed for Bail came to be rejected. However, now the investigation is completed and Charge-sheet is filed. It will take time to decide the matter on merits. The Bail can't be refused on apprehension raised by complainant. Hence, I proceed to pass following order :-

ORDER

1. The Bail Application No. 1155 of 2022 is hereby allowed.
2. The Applicant / Accused **Gaurav Maruti Mahadik** be released on bail, in C.R. No. 02 of 2022 registered by Worli Police Station on furnishing P.R. Bond of Rs. 30,000/- (Rs. Thirty Thousand only) with one or two solvent sureties in the like amount.
3. The Applicant is further directed to visit Worli Police Station once in a week, i.e. every Wednesday between 4.00 to 6.00 p.m. and to maintain the diary in respect of the visit till conclusion of trial.
4. The Applicant shall not leave India without prior permission of the Court.
5. The Applicant shall submit the proof of his residential address, phone number, Aadhar Card and Election Card, if any.
6. The Applicant shall not involve in any crime, if found, his bail may be cancelled.

7. The Applicant is further directed not to tamper with the prosecution evidence or witnesses.

8. 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 such facts to the Court or to the Police Officer.

9. The Applicant shall regularly attend the case on each and every date.

10. The Applicant is further directed not to visit the place where Prosecution witnesses are residing or to contact them.

11. In case of the violation of condition of bail the prosecution is at liberty to file an application for cancellation of bail.

12. The provisional cash bail is allowed for Eight weeks.

(SANJASHREE J. GHARAT)
Additional Sessions Judge
City Civil & Sessions Court
Greater Bombay.

Date :- 25.05.2022.

Dictation Typed on :- 25.05.2022.
Checked & Signed on :- 27.05.2022

BA 1155-2022

: 8 :

Dt. 25.05.2022

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED
JUDGMENT/ORDER.”

27.05.2022 at 5.50 pm
UPLOAD DATE AND TIME

(Y.M. SAKHARKAR)
NAME OF STENOGRAPHER

Name of the Judge (With Court room no.) **SMT. SANJASHREE J. GHARAT**
(C.R. NO. 39)

Date of Pronouncement of 25.05.2022
JUDGMENT/ ORDER

JUDGMENT/ORDER signed by P.O. 27.05.2022
on

JUDGMENT/ORDER uploaded on 27.05.2022