

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1302 OF 2015

Omkar s/o Vijay Kumar Chousatte,
Age : 19 years, Occu. Education,
R/o Raje Shivaji Nagar, Latur,
Tq. and District Latur

APPLICANT

VERSUS

The State of Maharashtra,
through Investigation Officer,
MIDC Police Station, Latur,
District Latur

RESPONDENT

Mr. R.P. Adgaonkar, Advocate for the applicant
Mr. V.P. Kadam, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 07/04/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by MIDC Police Station, Latur, District Latur in Crime No. 230/2014, registered for the offence punishable under section 376 of the I.P. Code, is praying for his release on bail.

3. The applicant was arrested on 30th September, 2014. Prior to the filing of the chargesheet, the applicant had filed criminal application No. 5975/2014 before this Court for his release on bail. However, vide order dated 14th November, 2014, the said application was allowed to be withdrawn with liberty to move the Sessions Court after filing of the chargesheet. After filing of the chargesheet, the applicant filed next of the application before the Sessions Court for similar relief. Since said application is rejected by the Sessions Court, the applicant is before this Court.

4. The complaint of the 32 years old prosecutrix would show that she is residing all alone by keeping her one year old daughter with her relatives in the area where the present applicant has a grocery shop. During the period of the incident, a cow of one neighbour was stolen and there was a suspicion that the prosecutrix had stolen the same. In the circumstances, the present applicant told the prosecutrix that he knew as to who had stolen the cow. However, unless and until she would have sexual intercourse with him, he would not give the information. In the circumstances, on three occasions

in the night, he had sexual intercourse with her in a cattle-shed. Thereafter, he gave false information regarding the location of the cow and therefore, the complaint came to be filed.

5. Mr. R.P. Adgaonkar, learned counsel for the applicant, submits that the FIR is belated. Even the spot shown by the prosecutrix is different than that is mentioned in the FIR. In the nature of the allegations, there is no and there could not be corroboration by way of medical evidence. There is no further corroboration that anybody from the locality had seen the prosecutrix going towards the place of intercourse on three occasions. In the circumstances, learned counsel submitted that the applicant be released on bail.

6. The learned A.P.P., on the other hand, opposed the application.

7. Considering the overall nature of the allegations, without going into the defects, if any in the prosecution case, as advanced before me, finding that the applicant is behind the bars for considerable time and the trial may take its own time, in my view,

the applicant can be released on bail. Hence, the following order:-

8. The applicant - Omkar s/o Vijay Kumar Chousatte be released on bail in Crime No. 230/2014, registered with MIDC Police Station, Latur, District Latur, for the offence punishable under section 376 of the I.P. Code, on his executing P.R. bond in the sum of Rs. 20,000/- (rupees twenty thousand) and also upon furnishing surety in the like amount.

. The applicant shall not any way attempt to influence any of the prosecution witnesses, in any manner.

. The present application is accordingly allowed and disposed of.

9. Authenticated copy of this order be supplied to the learned counsel for the applicant, at his request.

[M.T. JOSHI]
JUDGE