

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

**Criminal Application No. 1461 Of 2015.
With
Criminal Application No.1436/2015.**

Criminal Application No. 1461 Of 2015.

**DEEPAK S/O KISHORSING THAKUR & ORS.
VERSUS
THE STATE Of MAHARASHTRA.**

Criminal Application No. 1436 Of 2015.

**ARUN MOHAN DEVBONE.
VERSUS
THE STATE Of MAHARASHTRA.**

Appearance ==>

Mr. Salunke Sudarshan, Advocate for the Applicant in
Cri.Appln.No.1461/15.

Mr. Suvidh Kulkarni, Advocate for the Applicant in
Cri.Appln.No.1436/15.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of
Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 7th April, 2015.

Per Court :-

By these two Applications, the applicants therein are seeking their release on bail, since they are arrested in connection with CR No. 43/2015 registered with Sadar Bazar Police Station, District - Jalna for the offences punishable under Section.s. 376(D), 354(C), 366, 506 of the Indian Penal Code.

[2] Heard Mr. Sudarshan Salunke, learned counsel for the Applicants in Cri. Appln. No.1461/15 and Mr. Suvidh Kulkarni, learned counsel for the Applicant in Cri. Appln. No.1436/15 and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State.

Both these Applications were opposed by Mrs. Pratibha Bharad, learned Additional Public Prosecutor.

[3] On the basis of report lodged by the prosecutrix, on 6th February, 2015 the First Information Report was recorded with Sadar Bazar Police Station, District – Jalna. The period for atrocious acts, according to the first informant, were committed on her by the applicants is between November, 2013 to July, 2014.

[4] There is no dispute that, right from the date of commission of offence, the prosecutrix was major.

[5] I have gone through the First Information Report. It is clear that the prosecutrix is not illiterate. The assertions which are made in the First Information Report clearly reveals that the first informant, at least prima facie, was in love with Arun, Applicant in Criminal Application No.1436/15. Applicant in Criminal Application No.1461/15 are the friends of Arun, Applicant in Criminal Application No.1436/15.

[6] It appears that, the marriage took place between the prosecutrix and Arun (Applicant in Criminal Application No.1436/15). From the F.I.R. itself it is clear that the prosecutrix was residing with Arun for more than three months and they were residing at different places. Fact as disclosed in the First Information Report clearly shows that, ample opportunities

available with the prosecutrix either to resist or to report the misdeeds alleged to have been committed by Applicant - Arun with her. However, she chose not to report the matter to anybody; not to disclose anything to anybody.

[7] Further the First Information Report recites that the prosecutrix alongwith Arun had been to Police Chowki – Kadrabad of Sadar Bazar Police Station, Dist. Jalana. The Parents of the prosecutrix were also called in the Police Chowki. In their presence and in presence of Police also, the prosecutrix did not disclose anything.

[8] Mrs. Bharad, learned Additional Public Prosecutor has made available the investigation papers. From the investigation papers, it is clear that, the statements of parents of the prosecutrix were also recorded. Those statements clearly show that, they were called at Kadrabad Police Chowki and in their presence the prosecutrix has disclosed to them that she intends to stay with Arun and thereafter, in their presence, she left Kadrabad Police Chowki and started to reside with Arun.

She continued her stay with Arun for more than 2 ½ months. It appears that thereafter the prosecutrix found that the friends of Arun came to their house for consuming the liquor, therefore, she fed up due to all these activities and therefore, she gave a telephonic call to her father, who thereafter came at Deulgaon Raja, where the prosecutrix was residing with Arun. Thereafter, her father took her with him. Subsequently, report was lodged on 6th February, 2015.

[9] The Applicants in these two Criminal Applications are already arrested on 06/02/2015. When the applicants were in Police Custody

Remand, the mobile phones of the applicants were seized. The learned Additional Public Prosecutor has fairly stated that, nothing incriminating was found in the mobile phones of the present applicants.

[10] Charge sheet is yet to be filed. Mrs. Bharad, learned Additional Public Prosecutor submitted that, investigation is at the verge of completion and only formality of filing of the charge sheet is remained to be done.

[11] In view of the aforesaid and looking to the age of the prosecutrix that she has already attained the age of majority and knowing what is bad and what is good for her, she decided to reside with Arun, on her own accord therefore, further custodial presence of present applicants is not warranted. Hence, I pass the following order :-

ORDER

(i) Criminal Application No.1461/2015 and Criminal Application No.1436/2015 are allowed.

(ii) Applicant No.1 – Deepak Kishorsing Thakur and Applicant No.2 – Nishant Laxman Malekar in Criminal Application No.1461/2015 and Arun Mohan Devbone – Applicant in Criminal Application No.1436/2015 shall be released on bail on they executing P.R. Bond of Rs. 15,000/- [Rs. Fifteen Thousand.] each with two solvent sureties in the like amount, in connection with CR No. 43/2015 registered with Sadar Bazar Police Station, District - Jalna for the offences punishable under Section.s. 376(D), 354(C), 366, 506 of the Indian Penal Code.

(iii) The applicants shall not tamper with the prosecution witnesses nor shall intimidate the prosecutrix.

(iv) With these observations, Criminal Applications are disposed of.

(V.M. DESHPANDE, J.)