

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 2744 OF 2015

Gopal s/o Ranglal Rathod ... **Applicant**
Age 33 years, Occupation: Agriculture
R/o Kumbhari Khurd, Taluka Jamner
District Jalgaon

Versus

The State of Maharashtra ... **Respondent**
Through Pahur Police Station,
Taluka Jamner, District Jalgaon

Mr. Ajit M. Gholap, Advocate for the applicant
Mr. V. H. Dighe, APP for the Respondent-State.

CORAM : V. M. DESHPANDE, J.

DATE : 29th June, 2015

PER COURT :

1. This application is for regular bail. Applicant is arrested in connection with Crime No.8/2015, registered with Police Station Pahur, Taluka Jamner, District Jalgaon for the offences punishable under sections 302, 323, 498-A read with section 34 of the Indian Penal Code.

2. Investigating Agency has already completed the entire investigation and charge-sheet is filed.

3. I have heard Shri Ajit M. Gholap, learned counsel for the

applicant and Mr. V. H. Dighe, learned Additional Public Prosecutor for the State.

4. The First Information Report is lodged by the present applicant himself. In the first information report, he disclosed that his wife, by name Akkabai who is ultimately succumbed to injury, was raped by his cousin Mithun. During the course of investigation, according to the prosecution, it is the present applicant who has assaulted Akkabai due to which she has died.

5. Statement of prosecution witness Anil would reveal that on 24.01.2015, when he had been to the agricultural field, that time wife of Onkar Koli has informed him that in the field, dispute between applicant Gopal and his wife deceased Akkabai is going on. Then Anil went to the field. He noticed that Akkabai was sitting on a road and there was injury on her hand. That time, on enquiry, it was disclosed to Anil by Akkabai that Mithun gave her kick blows and then he has committed rape on her.

Mithun, a person against whom the first information report is lodged by the present applicant, is ultimately cited as prosecution witness. Statement of Jijabai who has intimated the witness Anil

would reveal that she saw the present applicant assaulting the deceased.

6. Statement of Mithun would reveal that he and Akkabai were sitting together. That time, Mithun put his hand on her shoulder and they were chitchatting and that time, the present applicant came there and assaulted to both of them. However, Anil rescued himself and ran away. While running away from the spot, he saw that present applicant was dragging Akkabai towards the hut.

7. Medical injury certificate of Akkabai is available on record which clearly shows that possibility of intercourse cannot be ruled out.

8. After having gone through the entire charge sheet, it is clear that the offence can be scaled down to minor than offence punishable under section 302 IPC in view of exception Thirdly of Section 300. Since investigation is over, charge is already filed and there was no intention to kill wife, the applicant can be released on bail. That leads me to pass following order:

ORDER

- i. Criminal Application is allowed.

- ii. The Applicant Gopal s/o Ranglal Rathod shall be released on bail in connection with Crime No.8/2015, registered with Police Station Pahur, Taluka Jamner, District Jalgaon for the offences punishable under sections 302, 323, 498-A read with section 34 of the Indian Penal Code, 1860 on he executing P.R. Bond of Rs. 10,000/- (Rs. Ten Thousand only) with two solvent sureties in the like amount. Bail before trial Court.
- iii. Application is disposed of.

(V. M. DESHPANDE, J.)

JPC