

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4056 OF 2015

MANDAKINI W/O MAHADEO BHAGWAT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Amol R. Gaikwad
APP for respondent : Mr. V.H. Dighe.

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CORAM : V.M.DESHPANDE, J.

DATE : 12th August, 2015

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PER COURT :

1. Heard Shri A.R. Gaikwad, learned counsel for the applicant and Shri V.H. Dighe, learned APP for the State.
2. By the present application, the applicant is seeking her release on bail since the applicant is arrested in connection with Crime No. 6/2015, registered with Police Station, Bardapur, Tq. Ambajogai, Dist. Beed, for the offence punishable under Sections 376(D), 342, 323, 506 of IPC and U/sec. 4, 18 of the Protection of Children from Sexual Offences Act and U/sec. 3(1)(11) (12), 3(2)(5) of the S.C. & S.T. (Prevention of Atrocities) Act.
3. The application is opposed by the learned APP on the ground that charge is already framed . The case was

fixed for evidence on 6th August, however, on that day, counsel for the accused persons sought adjournment.

4. The FIR is lodged by the prosecutrix herself. In the FIR itself the prosecutrix has given her age as 20 years. Thus, prosecutrix is major. After having gone through the entire material in the charge sheet, no overt act is attributed against the present applicant in the commission of offence under Section 376. The role attributed to the present applicant is, at the most, that she has given beating to the prosecutrix. However, there are no allegations in the charge sheet that the present applicant had beaten the prosecutrix so as to facilitate other accused persons to commit physical atrocities on the prosecutrix. Merely because husband of the present applicant has committed rape on the prosecutrix, the personal liberty of the applicant cannot be curtailed. Further it is made clear that this Court is exercising discretion in favour of the present applicant in view of the fact that she is a woman. That leads me to pass the following order.

5. [a] The criminal application is allowed and disposed of.

[b] Applicant Mandakini w/o. Mahadeo Bhagwat, be released on bail in connection with Crime No. 6/2015, registered with Police Station, Bardapur, Tq. Ambajogai, Dist. Beed, for the offence punishable under Sections 376(D), 342,323,506 of IPC and U/sec. 4,18 of

the Protection of Children from Sexual Offences Act and U/sec. 3(1)(11)(12), 3(2)(5) of the S.C. & S.T. (Prevention of Atrocities) Act. on her executing P.R.Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount.

[c] Bail before the trial court.

[V.M.DESHPANDE, J.]

GRT/-