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

CRIMINAL APPLICATION NO.4765 OF 2015

Balasaheb s/o Dnyanba @ Dnyanoba
Dhotre

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr Swapnil S. Rathi, Advocate for applicant;
Mr N.T. Bhagat, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 16th October, 2015

ORAL ORDER :

By the present application under section 439 of the Code of Criminal Procedure, the applicant seeks his enlargement on bail, in connection with C.R. No.89 of 2015, registered with Pathri Police Station, Pathri, Taluka Pathri, Dist. Parbhani, for offences punishable under sections 376 and 506 of the Indian Penal Code.

2. The incident is alleged to have taken place on 27th May, 2015, for which the first information report came to be lodged on 29th May, 2015.

3. Learned Counsel appearing on behalf of the applicant submits that the investigation in the matter is already completed and the charge-sheet is filed. According to him, there was delay of about two days in lodging the first information report, which was not explained. He then would urge that

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the prosecution story appears to be that the victim was dragged by the applicant from one field to another and then was subjected to forceful sexual intercourse. According to the learned Counsel, it is also the case of the prosecution that the applicant has drawn video clip of the complainant victim.

4. Learned Counsel would then urge that perusal of the investigation papers would reflect that there was no injury whatsoever on the body of the complainant. Apart from above, according to him, the claim that the applicant has video-graphed the victim in naked condition also does not appear to be true.

5. Learned Addl. Public Prosecutor, while opposing the application, would urge that the applicant has committed a serious offence. According to him, there is evidence on record against the applicant and, therefore, the application be rejected.

6. On perusal of the charge-sheet, it is noticed that there is no concluded medical evidence so as to demonstrate that there was forceful sexual intercourse with the victim by the present applicant. Apart therefrom, there are no surface injuries noticed on the body of the complainant, particularly in the light of the allegation made in the first information report. The Investigating Officer has also confirmed that on seizure of the mobile phone of the applicant, nothing objectionable could be noticed in the said mobile.

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7. In the light of above, in my opinion, the applicant deserves to be released on bail. Hence, following order :-

The applicant be released on bail, in connection with C.R. No.89 of 2015, registered with Pathri Police Station, Pathri, Taluka Pathri, Dist. Parbhani, for offences punishable under sections 376 and 506 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj