

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 7070 OF 2014

Lukas s/o. Motilal Garud

....Applicant.

Versus

The State of Maharashtra

....Respondents.

Mr. N.V. Gaware, Advocate for applicant.

Mr. N.B. Patil, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 22nd January, 2015.

ORDER :

1. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The crime is registered on the basis of report given by prosecutrix. The incident in question took place on 4.10.2014. The prosecutrix, victim girl, was aged about 14 years. On that day, after 4.30 p.m., the victim girl was returning from school and she was passing through the barren land. According to her, one man intercepted her, who was aged about 35 to 40 years and he said that he knew her maternal uncle and he would reach her to the place of maternal uncle. She had seen that man in the house of her maternal uncle, so she trusted him and she started proceeding as pillion rider on his motorcycle. It is her case that when the motorcycle passed by the side of house of her

maternal uncle, she asked him as to why the motorcycle was not stopped. That man said that he wanted to fill petrol in his motorcycle and so, he took the motorcycle on petrol pump but he did not fill petrol in the motorcycle, but he took the motorcycle away towards lonely place to a field. Two persons followed him there. She has given their age. She started shouting, but these persons pressed her mouth and forcibly took her to the field. There they virtually torn her clothes and then the first man and the present applicant committed rape on her. She became unconscious. She cannot say as to what the third man did as she had become unconscious after the act of present applicant. It was at about 7.00 p.m.

3. After some time, she came to the senses and she wanted to return to the house. On the road, she met one lady by name Sulbha Jadhav. The victim girl was virtually crying. Sulbha Jadhav helped her to return to home. Report came to be given on 5.10.2014 and the crime came to be registered for the offences punishable under section 376 (d) of I.P.C. and section 4 of Protection of Children from Sexual Offences Act.

4. The prosecutrix was subjected to medical examination. This Court has gone through the record. This Court has also gone through the record of panchanama and seizure of

clothes of the prosecutrix. That record is consistent. There is also statement of independent witness like Sulbha Jadhav.

5. The learned counsel for the applicant took this Court through the copy of plaint of R.C.S. No. 403/2013 which is filed in the Court of Civil Judge, Junior Division, Shevgaon. He submitted that present applicant is one of the plaintiff in the said suit and suit is filed in respect of agricultural land of Rani Kale. He submitted that this lady has instigated the prosecutrix to take the names of the present applicants and others due to the civil dispute. He read over the supplementary statement of prosecutrix. However, the prosecutrix has insisted in her supplementary statement that the persons shown to her in police station had raped her. At this stage, the defence taken by the applicant cannot be considered in view of the aforesaid material. Rape on a girl of 14 years is committed by the applicant. In view of the heinous act of the applicant, discretion cannot be used in his favour. There is also possibility of tampering with the prosecution witnesses.

6. In the result, the application is rejected. The aforesaid observations are for the present proceeding only.

[T.V. NALAWADE, J.]

ssc/