

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.352 OF 2015  
IN  
CRIMINAL APPEAL NO.402 OF 2015

Shri Raju Gudusaheb Sapkhan ..Applicant

*Versus*

The State of Maharashtra ..Respondent

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Mr. D.B. Patil, Advocate for the Applicant.

Mrs. P.P. Bhosale, APP, for the Respondent – State.

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CORAM : A. R. JOSHI, J.

DATE : 10<sup>th</sup> JUNE, 2015

P.C.

1. The appeal is already admitted by the earlier Bench.

Today arguments are heard on the application for bail.

2. Though during the pendency of trial the applicant/appellant was not on bail, the facts of the present case are very peculiar in nature inasmuch as those go to the root of the matter as to the involvement of the applicant in the offence punishable under Section 376 of IPC. The first glaring circumstance, much weighed with this Court, is that the FIR was lodged on 15.3.2014 out of the incident of 18.1.2014.

According to the prosecutrix (PW-1) on 18.1.2014 at night time when she came out of her house to throw garbage in the open space, the applicant came behind her and dragged her to the nearby place and committed forcible sexual intercourse with her after removing her garments. She could not resist his act out of fear given by him of dire consequences. However, noticing her voice, PW-5 her mother-in-law came out of the house and noticed that the applicant/appellant had embarrassed the prosecutrix. He was reprimanded. Father-in-law of the prosecutrix came out of the house, but, the applicant gave threats of dire consequences of demolishing their house by bringing seven to eight persons and left the place. The matter was reported to the Sarpanch of the village on the next day. A meeting was held in the village and a course of action was decided but no police complaint was lodged. Thereafter on 9.3.2014 i.e. after about one and half month of the incident the complaint was lodged with the police regarding threats of dire consequences given by the applicant and not of commission of offence of rape. Thereafter still a week later, FIR was lodged by the prosecutrix on 15.3.2014 alleging that on 18.1.2014 the applicant/accused had committed rape on her.

3. Considering this much delay and considering the story of the prosecution, as narrated in the FIR and the substantive evidence of the witnesses and mainly that of PW-5 mother-in-law, in the opinion of this Court during the pendency of the appeal the applicant can be released on bail. As such, application for bail is allowed. The applicant/appellant be released on bail on his executing a PR bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two sureties for the like amount. Application for bail is accordingly disposed of. Hamdast allowed.

( A. R. JOSHI, J.)

Deshmane (PS)