

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1201 OF 2015

1. Sachin Satish Nandurkar	
2. Tukaram Anil Chavan	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Mr. Umesh R. Mankapure, Advocate for the applicants.
Ms. Veera Shinde, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 21, 2015**

P.C.:

This Application is moved for bail, as the applicants/accused are facing charges under section 376(d), 506 of the Indian Penal Code in C.R. No. 4 of 2015 registered with Shahapur Police Station, District Kolhapur.

2. It is the case of the prosecution that the prosecutrix is a married woman of 24 years old. She is residing with her husband and two children. On 10th January, 2015 at around 8 p.m. she quarreled with her husband and with anger, she left the house and went near bus stop. The applicant/accused, who was residing on the backside of her house, came there on his motorcycle and asked her what she was doing at odd hours of night. She told him that she fought with her husband and left the house. At that time, applicant no. 1 told her to come along with him and he would settle their matter. Then he advised her to stay at his friend's sister's house at night and then in the morning he would drop her. She agreed for

it. Applicant no. 1 called one person and introduced him as his friend and then they all went to one house. They entered the house. The complainant told applicant/accused to call the sister of his friend, at that time, applicant no. 1 informed her that friend's sister is out of town. Thereafter, applicant no. 1 Sachin Nandurkar raped her and applicant no. 2 Tukaram Chavan raped her twice during night. Then Tukaram brought her at Ambedkar Nagar where she was residing. They threatened her that she should not tell anything about this incident to her husband. They gave Rs.200/- and dropped her at S.T. Stand. As soon as she reached her mother's place, her mother called her husband and her husband brought her back to Ichalkaranji. At that time, she narrated the incident to her husband. Thereafter she went to the police station on 12th January, 2015, pursuant to which an offence was registered under section 376(d) against the applicants/accused. The applicants/accused were arrested. Hence this Bail Application.

3. The learned counsel for the applicants/accused has submitted that the complaint is false. The complainant is a married woman. It is a case of consensual intercourse. In her statement, she stated that she came to Ambedkar Nagar and then went to maiden home next day. This is very strange. It shows that she was a consenting party and she has falsely implicated the applicants/accused. He submitted that the applicants/accused are to be bailed out and they will not run away, as they

hail from the same village.

4. Learned APP opposed the Application. She relied on the complaint and statement of other witnesses. She submitted that the statement of Mahesh Neelkanth Murtale is important. He is landlord of applicant Tukaram Chavan where prosecutrix was kept for a night and raped. She submitted that this is a case under section 376(d) and it is aggravated form of rape, hence, the applicants/accused is not to be released on bail.

5. Perused the FIR, statement of husband of prosecutrix and statements of other two witnesses. In the statement of Mahesh Murtale, landlord of Tukaram Chavan, he has stated that he has seen one man and lady at night at around 10.30 a.m. on 10th January, 2015 and on enquiry applicant no. 2 told that they are his guests. In the statement of other witness Ramesh Ramling Gajre, he has stated that he has seen one lady and one person at 10.30 a.m. on 10th January, 2015 and thereafter applicant no. 2 Tukaram Chavan arrived and he took them to his house. Considering this and as it is an offence under section 376(d), at this stage the statement of prosecutrix *prima facie* cannot be doubted as false statement. Therefore, this is not a fit case to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)