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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.162 OF 2015

Mohammed Abad Islam Ansari ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr.Mahesh Vaswani a/w Dharini Nagda, Ms.Anushree Kulkarni, Shama Mulla, Lata Shanbhag and Raju M. Pankar, for the Applicant.

Ms.PPShinde, APP for the Respondent – State.

PI. - B.H.Kakad, Dharavi Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATED : 23rd MARCH, 2015.

PC.

1. Heard learned counsel for the Applicant and the learned APP for the Respondent - State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR.No.280 of 2014 registered with the Dharavi Police Station, Mumbai, for the alleged offences punishable under Sections 376(D), 34 of the Indian Penal Code.

3. The incident in question has taken place on 22nd July, 2014. It is

alleged by the prosecutrix, that she had being for shopping to Bandra and on her way back to the Bandra Railway Station, near the Dharavi Junction, one white Innova car stopped near her. She has alleged that one person whom the victim was knowing, as Lala, was sitting next to the driver's seat, lowered the car window and asked the victim as to where she was going. It is alleged by the prosecutrix, that the co-accused – Lala asked her to sit in the car stating that he would drop her at the Bandra station and saying so he opened the door of the car. It is alleged that the prosecutrix saw one unknown person sitting behind the driver's seat. It is alleged that the said person was the present applicant, whom the prosecutrix was knowing as a press reporter and as Lala's brother. It is alleged that when the car went ahead, the present applicant pulled her and committed sexual assault on her and thereafter the co-accused – Lala also committed sexual assault on the prosecutrix. It is alleged that the prosecutrix resisted and shouted, after which the accused stopped the vehicle and the prosecutrix is alleged to have got down from the said car. Thereafter, the present complaint came to be lodged with the Dharavi Police Station, alleging the aforesaid offences.

4. Learned Counsel for the applicant contended that a false case has

been lodged as against the present applicant and that the applicant did not know the prosecutrix nor any Lal and that he is innocent. He submitted that at the relevant time, the applicant was at a Jewellery Shop along with his wife and that CDR records will support the said fact.

5. Learned APP submitted that considering the evidence initially the applicant was not arrested. However, only in the Polygraph Test of the Applicant, as one of the result to the question was shown as 'deceptive' that a suspicion was raised as against the present applicant. She submitted that the CDR records have been verified and the CDR records of the applicant at the relevant time, show that he was about 15 to 20 minutes away from the spot. She submitted that even the statement of the jeweller has been recorded, which shows that the applicant was present there.

6. Perused the papers of investigation. It appears from the polygraph report, that out of the four questions, only in one question the result was shown as 'deceptive', whereas for rest of the questions the result was shown as 'inconclusive'. Apart from the said fact, it also appears that the CDR records reflect that the applicant at the relevant time was about 15

to 20 minutes away from the spot, where the alleged sexual assault took place. Apart from the aforesaid fact, the shopkeeper's statement shows, that the present applicant was present at the Jewellery Shop, along with his wife at the relevant time.

7. Perused the papers of investigation. The medical report is negative. Infact, the joint report given by Sion Medical Hospital shows that the prosecutrix had given a different history with regard to the manner in which the incident had occurred. In the facts and circumstances of the case, the applicant deserves to be granted pre-arrest bail on the following terms and conditions :

ORDER

- i) In the event of the arrest, the Applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs15,000/- with one or two sureties in the like amount ;
- ii) The Applicants shall attend the Dharavi Police Station, Mumbai, once a week i.e. on Saturday, between 10.00 a.m. to 12.00 noon, till the filing of the charge sheet ;
- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;

iv) The Applicant shall co-operate with the Investigating Agency.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein, are prima-facie, for the purpose of deciding this application.

10. Parties to act upon the authenticated copy of this order.

(REVATI MOHITE DERE, J.)