

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 477 OF 2015

1. Pralhad Bhagwant Rokade	
2. Gopinath Atmaram Wasal	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Mr. Kuldeep S. Patil, Advocate for the applicant.
Mrs. R.V. Newton, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 22, 2015**

P.C.:

This Application for bail is filed by applicants/accused Pralhad Bhagwant Rokade and Gopinath Atmaram Wasal. The learned counsel for the applicant submitted that Pralhad Rokade has committed suicide in the jail in April 2015, as he could not bear the pressure of the prosecution. The learned counsel deletes his name and press the Bail Application for applicant/accused Gopinath Wasal.

2. It is the case of the prosecution that the applicant/accused Gopinath is facing charges under section 376, 506 of the Indian Penal Code and under section 3(1)(12), 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) and Section 4 of Prevention of Children from Sexual Offence Act, 2012. It is the case of the prosecution that the prosecutrix is 15 years old. On 20th December, 2014 when the

prosecutrix was alone, the deceased accused entered the house and he expressed that he wants to marry her, though he was married. As the prosecutrix refused to marry her, the deceased accused raped her and threatened that she should not disclose the incident to anybody. When the applicant Gopinath made a phone call on the mobile of prosecutrix father, at that time, her father's mobile was at home, so she received the phone call of applicant Gopinath. On hearing the weeping sound of prosecutrix, applicant Gopinath questioned her why she was crying, at that time, she disclosed the incident to the applicant. On the next date, i.e. on 21st December, 2014, at around 3 to 4 p.m., the applicant Gopinath called her near a public toilet and he tried to rape her. At that time, nobody was around there, however, her two sisters arrived near the public toilet and they knocked the door. When the prosecutrix opened the door, the applicant pushed her sister. He pulled the prosecutrix, took her away and dropped her on the road and threatened her that she would not disclose the incident to anybody. When the prosecutrix returned home, she informed the incidents of rape to her parents and then FIR was registered against both the accused.

3. The learned counsel for the applicant/accused has submitted that it is a false case against the applicant. He submitted that it is difficult to accept that the first incident of rape has taken place on 20th December,

2014 and again on the next day, i.e. 21st December, 2014, the second incident of rape has taken place. He submitted that the manner in which the incident is alleged is false. The applicant/accused has not committed any offence. The applicant was arrested on the same day, i.e. 21st December, 2014 and since then he is in the prison. He submitted that the applicant/accused shall abide by the terms and conditions imposed upon him by this Court.

4. Learned APP opposed the Bail Application and submitted that the prosecutrix is minor and further submitted that statement under section 164 was also recorded before the J.M.F.C., Nashik. She has mentioned specifically the name of applicant/accused who raped her.

5. Perused the FIR. It is true that prosecutrix did not tell anything about the incident of first rape to her parents but she told this to third person who was having good relations with her father. The manner in which the first and second rape incidents have taken place and considering the period from which the applicant/accused is in prison, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) The applicant Gopinath Atmaram Wasal shall be enlarged on

bail upon furnishing P.R. Bond in a like amount of Rs.25,000/- with one or two sureties in the like amount.

- (ii) The applicant shall not keep contact with the prosecutrix in any manner.
- (iii) The applicant shall not pressure the prosecutrix directly or indirectly.
- (iv) The applicant shall not stay in Village Awankhed, Taluka Dindori, Dist. Nashik till 30th November, 2015.
- (v) The applicant shall make himself available and attend all the Court dates.
- (vi) The applicant/accused shall not abscond and shall furnish his address to the police along with address proof.
- (vii) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
- (viii) The applicant shall not leave India without the prior permission of the Court.

6. The Application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)