

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 479 OF 2015

Mohammed Rakiul Nazrul Islam Hqqe

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mrs. Pooja Sejpal a/w Mr. Nitin Sejpal for Applicant

Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 23rd JULY 2015

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is charge-sheeted for offence punishable under section 376 (2) (g), 366, 506 (II) of Indian Penal Code.

2) It is the case of prosecution that on 30/09/2014, statement of the prosecutrix was recorded in Nayar Hospital, wherein she has disclosed that she is permanent resident of Murshidabad (West Bengal). The relationship between her parents was not cordial. She had frequent quarrels with her step father and therefore, she was constrained to take up a job. In the meanwhile, she got acquainted with a boy called Kartik. She got married to Kartik Das in Mumbai at Lower Parel. After 19 days of marriage, Kartik had abandoned her.

3) She then met Keshu @ Nazir who hailed from her village. She was

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residing with Keshu and his wife. Keshu had introduced her to Hasan Ali with whom she got married in the presence of their friends. Hasan Ali and complainant were residing at Wadi Bunder in the house of one Keshu. They had resided there for 5 months. A discordant note had struck between the couple and therefore, Hasan Ali had abandoned her. He had directed her to return to her house. After some days, she returned to the house of Hasan Ali, but Hasan Ali did not return to Mumbai. She waited for him. She then left for Murshidabad. Thereafter, she met her husband who assured her to get settled in Mumbai and therefore, Hasan Ali and complainant returned to Mumbai and were residing at Lower Parel. On 20/09/2014, after her husband Hasan Ali had left for work, Keshu had called her on his cellphone and requested her to accompany him to look out for a house at Kandivali. Without informing her husband, she left in the company of Keshu. He took her to Kandivali. There, she was taken to a construction site. Keshu had attempted to outrage her modesty. He had administered some pill to her. After consumption of the said pill, she had become unconscious. Keshu denuded her of her clothes and had taken her photographs. By threatening her, he had sexual intercourse with her and thereafter, other friends also had sexual intercourse with her against her

wish. Thereafter, she lodged a report against Keshu and his friends. She had been threatened of dire consequences. She disclosed the incident to her husband on 29/09/2014 about the incident dated 20/09/2014 and thereafter, they set law into motion. It was revealed in the course of investigation that applicant herein had ravished her against her wish on 20/09/2014. She was hospitalized. The involvement of the accused was writ large on the face of the record. Statement of the complainant appears to be truthful and hence, would inspire confidence of the Court.

4) Learned counsel for the applicant submits that statement of the complainant has also been recorded under section 164 of Code of Criminal Procedure, 1973. It is also submitted that there is a delay of 10 days in lodging F.I.R. According to learned counsel, complainant had concocted the story for the reasons best known to herself. There is no corroborative evidence to support her case.

5) Prima facie, statement of victim in a case under section 376 of Indian Penal Code deserves to be considered on its own. Complainant would be confronted with her statement at the time of trial and therefore, applicant does not deserve grant of bail.

ORDER

- (i) Application, being sans merit, stands rejected.

(SMT. SADHANA S. JADHAV, J.)