

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 595 OF 2015

Anil Laxman Pawar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Satyavrat Joshi, advocate for Applicant.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 21, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 24/9/2014 in
Crime No. 176 of 2014 registered at Gamdevi Police Station on
25/9/2014. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 25/9/2014 the prosecutrix lodged a report at the police station alleging therein that she is original resident of Taluka-Patan, district- Satara. That on 22/9/2014 she had a quarrel with her family members and had therefore, decided to leave the house at about 11 p.m.. She travelled from her native place to Mumbai. She reached Mumbai at about 5 a.m. She had contacted her cousin Jagannath Bavdhane. He had dropped her at Dadar. He had asked her to wait at the same spot since he had to go to the hospital. She was acquainted with the present applicant since they hailed from the same village. At about 10 a.m. she met the present applicant at Dadar. He had informed her that he would take her to her maternal house. He had instead taken her to Sharda Mandir Ashram Shala. Upon enquiry, the applicant had informed the staff of the school that the complainant hails from his village and she was to join for a job on the next day. The staff members had permitted her to halt in the hall of the said Ashram Shala. At about 10 p.m. on 23/9/2014 the applicant is alleged to have brought alcohol and had consumed alongwith the staff

members. Thereafter, he had allowed her to sleep in a room. It is alleged that in that intervening night the applicant had ravished her against her wish and had threatened her of dire consequences in the eventuality she had disclosed about it to anybody. On 24/9/2014 her brother had come to fetch her. She had disclosed the incident to her brother and thereafter, filed FIR and set the law into motion.

4 The statement of the victim was recorded thereafter on 26/9/2014, 28/9/2014 and 19/10/2014. Her statement was also recorded under Section 164 of the Code of Criminal Procedure, 1973 on 8th October, 2014. It is pertinent to note that the narration in all the four statements is at variance. They are inherently inconsistent.

5 Perused the papers of investigation, more particularly, the statement of one Sitaram Kamble who had disclosed that on 23/9/2014 he had allowed the girl to sleep in the hall of the said school and by virtue of being caretaker of the said school, he had also slept in the same hall. He has disclosed that the present applicant had brought food for the complainant. According to him, the

applicant had introduced the girl as his sister-in-law. However, he had not heard the cries of any girl or was not aware of any incident that was taken place in the hall.

6 Inconsistency in the statement of the complainant in respect of the allegation under Section 376 of the Indian Penal Code would entitle the applicant to be enlarged on bail. The applicant has been in custody since almost 10 months and therefore, he deserves to be enlarged on bail.

7 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The same be decided on its own merits in accordance with law.

8 Hence, the following order is passed :

ORDER

(i) The application is allowed.

- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount.
- (iii) The applicant be enlarged on provisional cash bail in the sum of Rs. 25,000/- for a period of 4 weeks within which he shall complete the procedure and comply with the order.
- (iv) The applicant shall report to the concerned police station on 1st Sunday of every month between 7 p.m. to 9 p.m. till the conclusion of the trial.
- (v) Upon releasing on bail, the applicant shall furnish his permanent address, cell phone number, landline number to the concerned Investigating Officer.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)