

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2306 OF 2014

Bharat Shankar Patil

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Anand S. Patil for Applicant

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 7, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 23/08/2014 in crime no. 132 of 2014 registered at Gadhinglaj Police Station, Dist. Kolhapur for offence punishable under section 366, 376, 323 & 506 of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 12/07/2014, prosecutrix lodged a report at the police station that on 12/07/2014, at 8.30 am to 9.00 am, when she was standing at the S.T. bus stand, some unknown person came in the car. He dragged her into the car. He took her to nearby forest region and had

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ravished her against her wish. Thereafter, she had walked down to her house. She informed her parents about the incident and the offence was registered on the basis of her statement. She had specifically contended in the F.I.R. that her cellphone was in her bag and that her bag and some other belongings are in the car in which she was taken away. It is pertinent to note that according to the prosecution, on 31/07/2014, investigating officer had seized the cellphone belonging to the complainant from the custody of the applicant, however, at that stage, applicant was not arrested, although, there was allegation of section 366 & 376 of Indian Penal Code. On 23/08/2014, supplementary statement of complainant was recorded. She was shown the cellphone. She identified the same as the one which belonged to her. She was informed that the person from whom the cellphone has been seized is known as Bharat Shankar Patil i.e. present applicant. Test identification parade was conducted and it is alleged that complainant had identified present applicant.

3) Upon perusal of papers of investigation, more particularly, the statement of mother of the victim, it appears that the complainant had disclosed to her mother that one person had come in his car on the same bus

stop on the earlier occasion, however, complainant has not identified the said person to be the applicant, who had ravished her. In the supplementary statement dated 23/08/2014, complainant has specifically stated that on 13/07/2014, when she was proceeding from front of school, she saw one boy and according to her, that boy had ravished her on the previous day. She inquired with the boy about his name and it is alleged that he has disclosed his name as Bharat Shankar Patil i.e. present applicant and that he happens to be son-in-law of Bapu Naik. It is not known as to why she had not disclosed to the police till 23/08/2014 that she knew the identity of the accused, moreover, cellphone was seized on 31/07/2014 and at that time, applicant was not arrested. At the time of medical examination, prosecutrix had disclosed that after she was ravished, she had become unconscious. The said aspect is missing in the F.I.R. and the statement of other witnesses. It appears that there are lapses in investigation.

4) Learned counsel for the applicant submits that either it is a case of mistaken identity or that applicant has been falsely implicated for the reasons best known to the complainant.

5) In any case, investigation is completed and charge-sheet is filed. Hence, applicant deserves grant of bail. Observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)