

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.2346 OF 2014

Rajesh Gorakh Khuswah ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Santosh M. Deshpande for the Applicant
Mrs G.P. Mulekar, APP, for the Respondent-State
Mr. M.K. Ingale, A.P.I. (I.O.), present.

CORAM: P.D. KODE, J.

DATED: JANUARY 13, 2015.

PC:

1. By this application the Applicant /accused charge-sheeted by Goregaon Police station, Mumbai for commission of offences under sections 376 and 506 (II) of the IPC has prayed for bail. The Applicant is accordingly charge-sheeted by the said police station an FIR lodged by victim on 9.4.2013. Without detailing the matters in entirety from said FIR, it can be said that it reveals that Applicant was second husband of mother of informant. The FIR discloses that initially the Applicant had told the victim that he was liking her and would marry her and on the next day threatened her that in event of herself not agreeing for it he will kill her as well as her mother. It also reveals that thereafter he had tried to kiss her.

2. Further part of the FIR reveals that on the next date the Applicant ravished the victim girl by taking advantage of her mother had been for work. It further depicts that after 3-4 days of said incident also he again ravished the victim girl in spite of the fact that on said occasion the victim had caused injury by means of a kitchen knife on her left wrist and same was then bleeding. The FIR reveals that initially an application was given to the police station and thereafter the FIR was lodged on 9.4.2013.

3. Mr. Santosh Deshpande, learned counsel for the Applicant pressed the prayer for bail mainly on the ground of there being a delay of about four months in reporting the matter to the police. It is his submission that the Applicant has been falsely implicated in this case due to strained relationship occurred in between her mother and the Applicant, who was in a live-in relationship. Mr. Deshpande, by drawing attention to the medical report, canvassed that no corroboration to the claim of the first informant is found from the medical certificate collected.

4. Perusal of the charge-sheet and the FIR undoubtedly reveal that the victim and her mother hails from a downtrodden family. Now considering the account of the incident, as revealed from the FIR, it clearly appears to be the case of sexual exploitation of a young girl by

the Applicant by taking undue advantage of his position. The Apex Court having observed that corroboration from medical evidence being not sine qua non requirement for supporting the claim of victim for an offence of rape, it is difficult to accept that merely because there is no support from the medical evidence, conclusion of the case being false can be drawn, as canvassed. In said context, it can be further added that said report also reveals that hymen of the girl victim was torn. Having regard to it, at this stage, prima facie, it cannot be said that there is no corroboration from the medical evidence collected during the course of investigation. Apart from it, considering the fact that the report was not lodged immediately but initially an application was given to the police station and as such there was a delay in examination of the victim, mere absence of injuries on private part by itself cannot be said to be sufficient for discarding the version of the first informant-victim.

5. Thus, taking an overall view of the material collected during the course of investigation and the same prima facie revealing it being a case of sexual exploitation of an unmarried girl by the Applicant of the age of her father, it is difficult to accept that the Applicant has been falsely implicated, as canvassed. Needless to add that it is difficult to perceive that unmarried girl will go to the extent of levelling false allegations which will have the effect of harming her reputation.

6. Thus, there is no merit in the application. Hence, the application stands rejected.

7. However, as the Applicant is in custody since 2013, the Sessions Court is directed to commence and complete the trial at the earliest and in any event by the end of August 2015, saving just exceptions. Liberty to the Applicant to renew the prayer for bail if the trial is not over by said date, subject to the Applicant cooperating the Court for expeditious disposal of the trial, as ordered.

8. All the observations made hereinabove being only for the purposes of deciding the merit in the prayer for bail nothing therein should be construed as a final opinion expressed by this Court regarding merits of the prosecution case.

(P.D. KODE, J.)