

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.676 OF 2016

Shahaji s/o Ashok More,
Age 21 years, Occu. Agri./
Labourer, R/o Loni Maval,
Taluka Parner,
District Ahmednagar

..Applicant

Versus

The State of Maharashtra,
through Police Station Officer,
Parner Police Station,
Taluka Parner, Dist.Ahmednagar

..Respondent

Mr N.V. Gaware, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 16th February 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.343 of 2015, registered at Parner Police Station, District Ahmednagar, for the offences punishable under Section 376 (1) (i), 354-A of the Indian Penal Code and under Sections 3, 4 and 11 of the Protection of Children from Sexual Offences Act.

3. The prosecution story against the present applicant is that the applicant is named as main accused in F.I.R., which was initially lodged on 4th October 2015. In the said F.I.R., it is claimed that on 17th May 2015, the applicant along with other accused persons have committed offence under Section 354-A of the Indian Penal Code.

4. Subsequently, the statement of complainant under Section 164 of Cr.P.C. came to be recorded in which she has narrated about commission of rape, as such the offence of rape came to be registered against the applicant.

5. Mr Gaware, learned Counsel for the applicant, while trying to make out the case for grant of regular bail would urge that the investigation in the matter is complete and charge-sheet is already filed. He would then urge that there are no criminal antecedents and the nature of evidence as brought on record and the delay in lodging the F.I.R. and subsequent improvement in the allegations, speak of false implication.

6. Learned Additional Public Prosecutor strenuously opposed the application by relying upon the statement of victim, the statement of friend of victim, namely Rani and the forensic science medical evidence.

7. With the assistance, I have perused the charge-sheet.

8. It is required to be noted that there is an unexplained delay in lodging the F.I.R. of about four months. Apart from above, it is required to be noted that initially, the offence was alleged against the applicant under Section 354-A of the Indian Penal Code. It is, subsequent thereto, when the statement under Section 164 of Cr.P.C. was recorded on 17th October 2015, i.e. almost after a period of five months from the date of incident of rape, i.e. 20th May 2015, the offence came to be registered. The victim was examined after almost five months and as such, there is no injury noticed on the body of victim.

9. In my opinion, looking to the nature of allegations and the unexplained delay in lodging the F.I.R., prima facie creates doubt as regards false implication. Apart from above, the fact remains that there are no criminal antecedents.

10. In this background, it will be appropriate in my opinion to order release of the applicant, as the applicant has undertaken before this Court that but for attending the Court, till conclusion of trial, he shall not enter the village where the victim stays.

11. As such, Criminal Application stands allowed. The applicant be released on bail in Crime No.343 of 2015, registered at Parner Police Station, District Ahmednagar, for the offences punishable under Section 376 (1) (i), 354-A of the Indian Penal Code and under Sections 3, 4 and 11 of the Protection of Children from Sexual Offences Act, upon furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

12. Undertaking of the applicant is accepted that till conclusion of trial, he shall not enter the village where the victim stays.

13. Applicant shall not tamper with the evidence.

(N.W. SAMBRE, J.)

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