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

CRIMINAL APPLICATION NO. 770 OF 2016

Baburao @ Kautikrao s/o Ranoba Bankar ...APPLICANT

VERSUS

The State of Maharashtra & anr. ...RESPONDENTS

Mr Rahul P. Mote, Advocate for applicant;
Mr K. D. Munde, Public Prosecutor for respondents;

CORAM : N.W. SAMBRE, J.

DATE : 15th February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant is seeking pre-arrest bail, in connection with C.R. No.96 of 2015, registered with Tembhurni police station, Taluka Jafrabad, Dist. Jalna, for offences punishable under sections 376, 307 and 452 of the Indian Penal Code.

2. The prosecution case against the applicant is that on 26th December, 2015, at about 8.00 p.m., he entered the house of the complainant and raped her. Upon resistance, the applicant has tried to administer poison to the complainant.

3. While trying to make out a case for grant of pre-arrest bail, learned Counsel appearing on behalf of the applicant has made two fold submissions; (a) that the applicant is falsely implicated in the crime in

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question and there is delay in lodging the first information report. An affidavit sworn on 16th January, 2016, filed before the learned Sessions Court, speaks of admission by the complainant of false implication of the applicant and (b) perusal of the contents of the first information report and other investigation papers would reflect that the story as is narrated in the first information report is completely improbable.

4. Learned Addl. Public Prosecutor opposed the application on the ground that there is strong *prima facie* evidence against the applicant and the complainant herself is an eye-witness to the incident.

5. Perused the investigation papers. The medical evidence does not support the case of the prosecution that there was an assault and rape on the complainant. Nothing was recovered, particularly the bottle containing poison, clothes, etc. from the complainant, at least same is not brought to my notice. The complainant has not suffered a single injury, as can be ascertained from the medical papers.

6. Apart from above, the affidavit tendered by the complainant before the Sessions Court speaks about her conduct.

7. In the above background, in my opinion, the applicant is entitled for the protection. I, therefore, pass following order :-

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In the event of arrest of the applicant, in connection with C.R. No.96 of 2015, registered with Tembhurni police station, Taluka Jafrabad, Dist. Jalna, for offences punishable under sections 376, 307 and 452 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially from 22nd to 24th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj