

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

CRIMINAL APPLICATION NO.961 OF 2016

Somnath s/o Dattatraya Nagude,
Age 28 years, Occu. Student,
R/o Dighi, Taluka Newasa,
District Ahmednagar

..Applicant

Versus

1. The State of Maharashtra,
Through S.P. Ahmednagar
2. I.O. of Newasa Police Station,
Taluka Newasa,
District Ahmednagar

..Respondents

Mr P.B. Patil, Advocate for applicant
Mr M.M. Nerlikar, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.
DATE : 25th February 2016

PER COURT

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.30 of 2016 registered at Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 376, 420 read with Section 34 of Indian Penal Code and under Sections 3 (2) (v), 3 (1) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as "Prevention of Atrocities Act" for brevity).

3. The prosecution story against the present applicant is that victim Anita was married to Suresh and was blessed with two children. Thereafter, she was in physical relation with one Santosh Bhimraj Aagle, who happened to be friend of present applicant. Victim Anita thereafter started residing with Santosh and there are certain

matrimonial proceedings pending between Suresh her husband and victim Anita. In this background learned Counsel for the applicant submits that prosecution story is, paramour of complainant Anita namely Santosh Aagle, agreed to pay Rs.10 lakhs to her so as to settle the dispute between them. Out of total Rs.10 lakhs, Rs.5 lakhs were paid to her, and when she was accompanying in a car with the present applicant who is attributed role of friend of said Santosh, the said amount was removed from the custody of the victim Anita, for which the prosecution claims that the applicant is responsible person. The applicant is stated to be an Advocate by profession in F.I.R., whereas, it is admitted that he is undergoing studies in law institution.

4. While trying to make out the case for grant of bail, learned Counsel for the applicant would urge that the applicant, a student, without any criminal antecedent is falsely implicated in the crime in question. He would then urge that there is hardly any role attributed to him for the offence punishable under Section 376 of the Indian Penal Code, however, there are Sections under the provisions of Prevention of Atrocities Act, under which he is booked. He would then urge that F.I.R does not depict any act on the part of the applicant to commit offence under the Prevention of Atrocities Act.

5. Learned A.P.P. opposed the application on the ground that preliminary, investigation depicts prima facie involvement of the applicant in the commission of crime in question. He would then urge that custodial interrogation of the applicant is necessary so as to trace the amount and the other accused persons, who were involved in the crime.

6. Having bestowed my thoughts to the submissions made, it could be noted from the F.I.R. that there are no attributions against the applicant qua the offence under the provisions of Prevention of Atrocities Act. So far as alleged offences under Sections 420 and 376 of the Indian Penal Code are concerned, there are no attributions qua the offences under Sections 376 and 420 of the Indian Penal Code. It is stated that the amount was removed from the custody of victim Anita while she was travelling with the applicant in his car. The narration, as stated holding the present applicant to be responsible for the said act appears to be an improbable story.

7. Apart from above, it is admitted position on record that there are matrimonial proceedings pending between victim Anita and her husband Suresh.

8. It is required to be noted that the amount in question is claimed to have been paid by Santosh through present applicant so as to settle the alleged dispute between Santosh and Anita. Complainant Anita has already initiated proceedings against her husband Suresh. Santosh is also added as one of the accused to the present crime.

9. Looking to the nature of allegations against the applicant and as there are hardly any attributions against the applicant, leave apart absence of allegation for an offence punishable under Section 376 of the Indian Penal Code, in my opinion, it will be appropriate to order release of the applicant.

10. As such, Criminal Application stands allowed. In the event of arrest in Crime No.30 of 2016 registered at Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 376, 420 read with Section 34 of Indian Penal Code and under Sections 3 (2) (v), 3 (1) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the applicant be released on bail, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

11. The applicant shall attend the concerned Police Station from 1st March 2016 to 5th March 2016 between 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.

(N.W. SAMBRE, J.)

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