

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.709 OF 2016

Devidas s/o. Bharat Kadam ..Applicant

Versus

The State of Maharashtra ..Respondent

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Mr.S.G.Ladda, advocate for applicant

Mr.S.Y.Mahajan, APP for respondent - State

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WITH

CRIMINAL APPLICATION NO.1261 OF 2016

Annasaheb s/o. Govind Pawase ..Applicant

Versus

The State of Maharashtra ..Respondent

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Mr.S.S.Dixit, advocate for applicant

Mr.S.Y.Mahajan, APP for respondent - State

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CORAM : M.T. JOSHI, J.

DATE : MARCH 14, 2016

PER COURT :

Heard.

2] The applicants, who are arrested in Crime No.I-222 of 2015 registered at Sangamner City Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Section 376-D, 376(2)(L) of Indian Penal Code and Sections 3(2)(v) and 3(1)(xii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, are praying for their release on bail.

3] Mr.Ladda, learned counsel for applicant in Criminal Application No.709 of 2016, seeks leave to make corrections in the application regarding the date of arrest of the applicant.

4] Leave granted. Corrections be carried out forthwith.

5] The F.I.R. filed by the husband of the victim on 29th September, 2015, would show that on 26th September, 2015, when he as well as his four

children went to market and his wife was alone in the house, present applicants along with four others had entered his house. They sexually harassed the wife of the complainant and committed rape upon her. Thereafter, they burnt her pubic hairs and went away.

6] On the day of the incident itself, the victim i.e. wife of the complainant had identified one of the accused i.e. Annasaheb and thereafter on 27th September, 2015 during a programme of Ganesh festival, she identified rest of the applicants. In the circumstances, the complaint was filed on 29th September, 2016.

7] Learned counsel for the applicants point towards the medical examination report of the victim, which would show that the Medical Officer did not find that any pubic hairs of the victim were burnt. Even no injury on the person of the

victim was found. Further, during the test identification parade, present applicants were not identified by the victim.

. In the circumstances, learned counsel for the applicants submits that only due to political rivalry and due to involvement of one Journalist, the names of the present applicants were mentioned in the FIR. The applicants are falsely implicated and came to be arrested on the date registration of the FIR itself. Learned counsel, therefore, submit that the applicants may be released on bail.

8] Learned A.P.P. for respondent – State opposes the application. He submits that one of the applicants has made recovery of his clothes, which were on his person at the time of the incident and there is a witness to whom, the extra-judicial confession was made by the present applicants regarding commission of the crime.

9] Considering the material on record and finding that the trial may take its own time, in my view, present applicants can be released on bail on certain conditions.

10] Hence, the following order :-

A] Both the Criminal Applications are hereby allowed.

B] The applicants in both the applications be released on bail in connection with Crime No.I-222 of 2015 registered at Sangamner City Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Section 376-D, 376(2)(L) of Indian Penal Code and Sections 3(2)(v) and 3(1)(xii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon their executing P.R. bond in the sum of Rs.20,000/-

(Rs.Twenty Thousand) each and also upon furnishing surety each in the like amount.

C] These applicants shall not enter the territorial limits of village Devgaon, Tq. Sangamner, Dist. Ahmednagar, for a period of two years or till conclusion of the trial, whichever occurs earlier, without prior permission of the concerned Sessions Court.

D] The applications stand disposed of accordingly.

[M.T. JOSHI, J.]