

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1382 OF 2016

Amol Bhau Dongare ..Applicant

Versus

The State of Maharashtra ..Respondent

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Mr.A.K.Gawali, advocate for applicant

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

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CORAM : M.T. JOSHI, J.

DATE : MARCH 11, 2016

PER COURT :

Heard.

2] The applicant, who is arrested in Crime No.I-01 of 2016 registered with Parner Police Station, Tq. Parner, Dist.Ahmednagar for the offences punishable under Section 376(i), 452, 506 read with 34 of Indian Penal Code; and Section 4 of the Protection of Children from Sexual Offences Act, is praying for his release on bail.

3] The complaint filed by the victim of the offence would show that present applicant is her distant relative. On 30th October, 2015, the applicant entered in her house while she was changing her dress and tried to make sexual advances against her. In the meantime, another relative of the victim came there. He started threatening the applicant that he would make a phone call to the complainant's father. The applicant, however, threatened him and therefore, he went away.

. Thereafter, the applicant forcibly committed sexual intercourse with the complainant. Thereafter, he threatened her to take poison upon which, the victim took the poison and was admitted to the hospital.

. The complainant regained consciousness on 3rd November, 2015 and thereafter, the complaint came

to be filed on 2nd January, 2016 as according to the complainant, the applicant used to behave like a goon in the village.

4] The medical papers would show that the victim was examined by the Medical Officer on 10th January, 2016. The Medical Officer noted that the hymen was ruptured at 7 'O' clock position and injury was present.

5] Mr.Gawali, learned counsel for the applicant, points towards the application made by the A.P.I. at Parner Police Station on 21st May, 2015 (Exhibits A and B), which would show that in view of the counter complaints, proceedings under Section 107 of the Code of Criminal Procedure was already started between the parties.

. He further files on record the photocopy of the case papers of Sasoon General Hospital, Pune,

which would show that the applicant was suffering from fever and vomiting etc. and he has history of having Paraplegia.

. He submits that in view of these facts, it would be clear that a false complaint is filed against the applicant after a long delay. The complaint is result of past enmity.

6] Learned APP opposes the application and submits that the medical evidence would show that the injury to hymen was there.

7] Upon hearing both sides and finding that while the alleged incident has occurred on 30th October, 2015 and the victim was examined on 10th January, 2016, the Medical Officer found injury in the nature of tear to hymen of 7 'o' clock position, in these circumstances, without making any comment on merit of the case, finding that the

investigation is now complete, in my view, the applicant can be released on bail.

8] Hence, the following order :-

A] Criminal Application is hereby allowed.

B] The applicant be released on bail in Crime No.I-01 of 2016 registered with Parner Police Station, Tq. Parner, Dist.Ahmednagar for the offences punishable under Section 376(i), 452, 506 read with 34 of Indian Penal Code; and Section 4 of the Protection of Children from Sexual Offences Act, upon his executing P.R. bond in the sum of Rs.20,000/- (Rs.Twenty Thousand) and also upon furnishing surety in the like amount.

C] The applicant shall not influence any of the the prosecution witnesses in any manner.

[M.T. JOSHI, J.]