

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

CRIMINAL APPLICATION NO. 2306 OF 2016

Mahadeo s/o Tukaram Wachakaran

...Applicant

VERSUS

The State of Maharashtra

...Respondent

.....
Shri N.V.Gaware, advocate h/f
Shri S.A.Ambad, advocate for applicant
Shri N.T.Bhagat, A.P.P. for respondent/State
.....

CORAM : INDIRA K.JAIN, J.

DATED : 29th April, 2016

ORDER :

By this application applicant/accused seeks his enlargement on bail in Crime No. 170 of 2015, registered at Dharur police station, Taluka Dharur, District Beed, for the offences punishable under Sections 363, 366, 376 of the Indian Penal Code.

2] Heard Shri N.V.Gaware, learned counsel for applicant and Shri N.T.Bhagat, learned A.P.P. for State. Perused papers of investigation.

3] The first informant is a 30 years old married lady, resident of Umrewadi, Taluka Dharur. She states that on 24.12.2015 her husband had gone to village Rui Dharur. She was alone in the house. At around 8.00 p.m. applicant her neighbourer had been to

her and told her that her husband had met with an accident, so she should accompany him. Believing the words of applicant complainant accompanied him on motor cycle. On the way she was asked to board in jeep. Then she was taken to Nashik at sister of applicant. The sister of applicant did not allow them in her house and so from Nashik applicant and complainant went to Solapur. Applicant hired a room at Solapur. According to complainant in the night of 25.12.2015 applicant committed sexual assault on her and when on the next day morning she asked him to drop her to her village he refused for the same. She could any how come back to her village and lodged report.

4] During investigation statement of landlord at Solapur and sister of applicant at Nashik have been recorded. From these statements it is apparent that there was no resistance from the side of complainant. Medical evidence is in the negative. Even if allegations in first information report and statements of witnesses are taken as they are it appears to be a case of consent. Investigation is already over. Charge sheet has been filed. Applicant is in custody since 30.12.2015.

5] In the above premise, no fruitful purpose would be served by keeping applicant in further custody. Hence the following order.

ORDER

(i) Criminal Application No. 2306 of 2016 is allowed.

(ii) Applicant is released on bail on P.B. and S.B. of Rs.15,000/- each.

(iii) Applicant shall not tamper with prosecution evidence and shall make himself available as and when required.

(iv) Bail before the Trial Court.

[INDIRA K.JAIN, J.]

dbm/crap2306.16