

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2973 OF 2016

Vijay S/o Rangnath Shinde .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. A.K. Bhosale, Advocate for the applicant
Mr. A.S. Shinde, APP for the respondent-State

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CORAM : N.W. SAMBRE, J.

DATE : 20/06/2016

ORAL ORDER :

Heard.

2. The applicant is seeking regular bail in Crime no.18 of 2016 registered at Veergaon Police Station, Dist. Aurangabad for the offences punishable under section 376(1), 452 of the Indian Penal Code and under section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The prosecution case is that the victim - Sarika was married to one Pundalik, who was close friend of the applicant. Noticing that Pundalik was not at home, the applicant entered his house and committed rape on Sarika, resulting into lodging of the FIR on 22/2/2016.

4. The investigation in the matter is complete and the chargesheet is already filed. In this background, Shri Bhosale, learned counsel for the applicant would submit that the perusal of the investigation papers would reveal that the applicant is falsely roped in the offence, as it is consent case, as is apparent from the investigation. He would then rely upon the contents of the FIR and statement of victim - Sarika recorded under section 164 of the Cr.P.C. In addition, he would submit that there are no criminal antecedents and applicant, a married person, has a place in the Society, as such, he will not run away from the

process of law.

5. Learned A.P.P. opposed the application on the ground that victim – Sarika, in clear terms has implicated the present applicant in the crime in question and there is strong evidence against the applicant. He would submit that the victim suffered injury on the forehead, which must have been caused by the present applicant in the commission of crime in question. According to him, the application be rejected.

6. Having bestowed my thoughts to the submissions advanced and the papers, as are placed on record, it is required to be noted that victim – Sarika, in her statement recorded under section 164 of the Cr.P.C. after about 3 days from the date of complaint, has made substantial improvements. Be that as it may. From the investigation and the contents of the FIR prima facie inference of the consent by the victim, who perhaps was caught by her

husband, prompted her to lodge the complaint. Apart from above, it is to be noted that the injury suffered by the victim could be attributed to her husband – Pundalik, as she herself has come out with a case that Pundalik, thereafter, started assaulting her. FIR does not speak of assault by the applicant to the victim.

7. The investigation as carried out does not reflect exchange of communication over the mobile phone, as appears to have been stated in the FIR.

8. As such, in my opinion, the applicant, who is behind bars since last about four months, is entitled to be released on bail as the investigation in the matter is complete and the chargesheet is already filed. Hence, the following order:-

9. The applicant be released on bail in Crime no. 18 of 2016 registered with Veergaon Police Station, Dist. Aurangabad for the offences punishable under section 376(1), 452 of the Indian

Penal Code and under section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon his executing P.R. bond in the sum of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

10. The applicant shall not tamper with the prosecution evidence or the witnesses.

11. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-