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

CRIMINAL APPLICATION NO.3579 OF 2016

Sandip Tanaji @ Nokya Gavit,
Age: 35 years, Occ: Labour & Agri.,
R/o. Sonkhadke, Taluka Navapur,
District Nandurbar. ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr C.R. Deshpande, Advocate for applicant;
Mr S.Y. Mahajan, Addl. Public Prosecutor for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st August, 2016

ORDER :

The applicant is seeking regular bail in Crime No. 31 of 2016 registered with Navapur Police Station, District Nandurbar, for the offence punishable under Sections 376(A), 354(A) (1) of the Indian Penal Code.

2. It is claimed by the victim Mangala that she knows the applicant as both of them were working at construction site and on 21st February,

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2016, the applicant entered her hut and committed heinous and serious crime of rape. While trying to make out a case for grant of bail, learned Counsel for the applicant submits that the investigation in the matter is over, as the charge sheet is filed and there is hardly any likelihood that the applicant will run away from the process of prosecution. There are no criminal antecedents and perusal of the statements of eye witnesses, particularly recorded under Section 164 of the Code of Criminal Procedure do not repose faith or probability of an offence in question.

3. Learned A.P.P. opposed the bail application on the ground that there is evidentiary value to the statement of the victim Mangala and other two witnesses recorded under Section 164 of the Code of Criminal Procedure. He would submit that since the offence is punishable for more than ten years, the application for grant of regular bail be rejected.

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4. Having bestowed my thought to the submissions made, it is to be noted that the first information report narrates the story that the victim Mangala suffered the crime in question at the behest of present applicant on 21st February, 2016. The first information report came to be lodged in the police station on 13th March, 2016 i.e. almost after 21 days though complainant has offered explanation in the first information report, however, same does not appear to be convincing.

5. Apart from the statements of witnesses recorded under Section 164 of the Code of Criminal Procedure do not speak of involvement of the applicant in the crime in question but only speak of his presence. The medical evidence does not support the case of prosecution.

6. In view of above, in my opinion, as the investigation is complete, the applicant is entitled to be released on bail. Hence, the

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following order:-

(a) The applicant be released on bail, in connection with Crime No. 31 of 2016 registered with Navapur Police Station, District Nandurbar, for the offence punishable under Sections 376(A), 354(A) (1) of the Indian Penal Code, on furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.

(b) The applicant shall attend the trial Court regularly and co-operate learned trial Court in disposal of trial and shall not seek adjournments. Non co-operation on the part of the applicant may entail learned trial Court to proceed with the cancellation of bail independently, without being influenced by this order.

7. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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