

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4026 OF 2016

Rajendra S/o Annasaheb Waghaskar

Age : 40 years, Occu.: Agri.,

R/o Surodi, Tq. Shrigonda,

Dist. Ahmednagar

.. Applicant
(Orig. Accused)

Vs.

The State of Maharashtra

Through Investigating Officer,

Karjat Police Station, Tq. Karjat,

Dist. Ahmednagar

.. Respondent

.....

Mr. N.B. Narwade, Advocate for the applicant

Mr. A.S. Shinde, APP for the respondent-State

Mr. N.V. Gaware, Advocate to assist APP

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CORAM : N.W. SAMBRE, J.

DATE : 02/08/2016

ORAL ORDER :

Heard.

2. The applicant is seeking pre-arrest bail in Crime no.I-128 of 2016 registered at Karjat Police Station, Dist. Ahmednagar for the offences punishable under section 376, 376(1), 506 of the Indian Penal Code.

3. It is the case of the prosecution that the applicant is distantly related to the complainant – Kalpana, in the capacity of father-in-law, as he happens to be the cousin brother of her real father-in-law. It is claimed that the complainant – victim was asked to accompany the applicant and the applicant took her at a lodge and committed rape, resulting into registration of the crime.

4. While trying to make out a case for grant of pre-arrest bail, learned counsel for the applicant Shri Narwade would submit that the applicant is falsely involved in the crime in question, as the complainant has narrated a completely improbable story. He would then urge that apart from above, there is an unexplained delay of 8 days in lodging the FIR.

5. Learned A.P.P. submits that custodial interrogation of the applicant is necessary, as the

applicant is required to undergo the medical examination. Apart from above, according to him, there are call details records report, which speak of the interaction of the applicant and the complainant. The other incriminating material like the entry in the register maintained by the lodge where the applicant went, the call details record report and the statement of the victim are sufficient to demonstrate *prima facie* involvement of the applicant in the crime in question.

6. Having bestowed thoughts to the submissions made, it is required to be noted that there is an unexplained delay of 8 days in lodging of the FIR. The only explanation offered by the complainant is that she was under threat from the applicant when the crime in question was committed. It is to be noted that mental condition of the complainant as regards alertness could be gathered from the fact that she stayed with her family including that from her parental side so also with her husband and

mother-in-law, still delay of 8 days is not explained.

7. It is then required to be noted that important piece of evidence i.e. extract from the register maintained by the Swaraj lodge, which reflects the entry in the name of applicant, is tampered with and it also does not bear the signature of the applicant that he was admitted as a customer to the said lodge. Apart from above, it has been expected of the lodge owner to take identity proof before giving a room on hire. The statement of the lodge owner is absent in the investigation papers.

8. Apart from above, the probability of story, as is narrated in the FIR, appears to be doubtful, particularly in view of the fact that though the applicant was on the bus stand with the victim, the victim has accompanied him on his motorcycle for taking tea at some other place from which

appropriate inference can be drawn. In this view of the matter, in my opinion, false implication of the applicant cannot be ruled out. Hence, the following order:-

9. In the event of the arrest of the applicant in crime no.I-128 of 2016 registered at Karjat Police Station, Dist. Ahmednagar for the offences punishable under section 376, 376(1), 506 of the Indian Penal Code, he be released on bail upon his executing P.R. bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) with one surety in the like amount.

10. The applicant shall attend the concerned Police Station, initially on 6th, 7th and 8th August, 2016 between 10.00 am and 12.00 noon and, thereafter, as and when called.

11. The applicant shall not tamper with the prosecution evidence or influence the witnesses in any manner.

12. The applicant volunteers that he shall co-operate in giving the samples required for medical examination.

13. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-