

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

CRIMINAL APPLICATION NO. 5069 OF 2016

Shriram Vitthal Patil .. Applicant
Age. 43 years, Occ. Driver,
R/o. Karanji (Bk), Tq. Parola,
Dist. Jalgaon.

Versus

The State of Maharashtra .. Respondent

Mr.Joydeep Chatterji, Advocate for the applicant.
Mr.A.S.Shinde, A.P.P. for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 03.10.2016**

P.C. :-

1. The applicant/accused in Crime No.120 of 2016 for the offence punishable under sections 376, 354 and 506 of the Indian Penal Code, registered with Parola Police Station, Dist. Jalgaon, at the instance of the prosecutrix, by this application is seeking his release on bail.

2. Heard learned Counsel for the applicant/accused. By drawing my attention to para 5-C of the application, learned Counsel argued that what had happened was a consensual sex detected by brother of the informant leading in registration of the crime in question.

3. Learned A.P.P. opposed the application by contending that the version of the prosecutrix is corroborated by the statement of her brother as well as statement of another relative, by name, Chhayabai Patil.

4. Perused papers of investigation. According to the prosecution case, on 10.08.2006, when the prosecutrix had been to the field adjoining to her house for answering nature's call, applicant came from behind, caused her fall on the ground of the field and committed forcible intercourse with her. The prosecutrix alleged that during this act, because of her resistance, her blouse was torn. She alleged that because of her shouts, her brother Bhaiyya alias Vijay came and then there was grappling between them. The applicant then flee from the spot.

5. In similar way brother of the prosecutrix has stated that upon hearing shouts of his sister, he went to the spot and found the applicant in the act. The statement of Chhayabai is to the effect that she heard shouts of the prosecutrix coming from the field.

6. Specific averments of the prosecutrix as well as that of her brother Bhaiyaa alias Vijay are to the effect

that the applicant caused fall of the prosecutrix on the ground of the field and then committed forcible intercourse with her. The prosecutrix is stating that because of force applied by the applicant, her blouse was torn. Perusal of report of medical examination of the prosecutrix, which was done immediately after the incident i.e. on very next day, does not show any injury over back of the prosecutrix, though the incident took place on rough surface of the field. The investigation of the crime in question appears to be over as all seizures are effected and statements of witnesses are also recorded. Seized articles are also sent for medical analysis. The prosecutrix is an adult lady of 34 years of age.

7. As the investigation in question is virtually over, further pre-trial detention of the applicant is not warranted. Therefore, the following order :-

O R D E R

i) The application is allowed.

ii) The applicant – Shriram Vitthal Patil in Crime No. 120 of 2016 registered with Parola Police Station, Dist. Jalgaon, for the offences punishable under sections 376, 254 and 506 of the Indian Penal Code, be released on bail on

executing P.R. Bond of Rs.30,000/- (Rupees Thirty Thousand) and on furnishing surety in the like amount.

iii) As a condition of this order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

iv) The applicant shall not tamper the evidence of the prosecution.

v) The applicant shall co-operate the Trial Court in expeditious disposal of the trial in the event of filing of charge-sheet, if any, against him.

[A.M. BADAR, J.]