

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

CRIMINAL APPLICATION NO. 5375 OF 2016

Shivaji @ Shivram Thaka Dagale .. Applicant
Age. 33 years, Occ. Agri.,
R/o. Dagale Vasti (Tirde),
Tq. Akole, Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr.R.K. Temkar, Advocate for the applicant.
Mr.S.P. Sonpawale, APP for respondent/State.

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

P.C. :-

1. The applicant/accused in Crime No. I-27/2016 for the offences punishable under sections 376 and 506 of the Indian Penal Code, registered with Akole Police Station, Tq. Akole, Dist. Ahmednagar, by this application is seeking bail after filing of the charges-sheet.

2. Heard learned Counsel for the applicant/accused. He argued that the case is of consensual sex and even the medical papers show that the incident alleged was happening since last 5-6 years.

3. Learned APP opposed the application by contending that the crime in question is very serious and version of the informant is corroborated by the statements of her associates, such as, Meena and Anita. Even husband of prosecutrix is also supporting her version about the incident in question.

4. Perused the charge-sheet. The prosecutrix had reported on 12.03.2016 that the accused is residing nearby her house. The F.I.R. itself shows that the prosecutrix is 36 years old living with her husband and children, who are aged about 16-14 years old. The F.I.R. further shows that the applicant and the prosecutrix were in talking terms and they were working together, as agricultural labourers. According to the prosecutrix, about 2 to 2.5 years prior to lodging of F.I.R., the applicant committed forcible sexual intercourse with her in the field. Thereafter, he had threatened the prosecutrix by saying that if the incident is disclosed then he will kill her. The F.I.R. shows that with such threats the applicant was repeatedly committing forcible sexual intercourse with her and last of such incident was on 19.02.2016.

5. The F.I.R. shows that the applicant and the prosecutrix were well acquainted. It is not the case of

the prosecutrix as reflected from the charge-sheet that the applicant was having any criminal antecedents and capacity to terrorize the public at large. The prosecutrix and the applicant were doing agricultural work together in the field of Shivaji Dagale. In this context, reporting the incident which was being committed since last so many years will have to be viewed. Now the charge sheet has been filed.

6. Considering the nature of present applicant and the fact that the investigation is over, I have no reason to refuse bail to the applicant. Hence, order :-

O R D E R

i) The application is allowed.

ii) Applicant/accused-Shivaji @ Shivram Thaka Dagale in Crime No. I-27/2016, registered with Akole Police Station, Tq. Akole, Dist. Ahmednagar, for the offence punishable u/s 376 & 506 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing one or more surety in the like amount.

(4)

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(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 to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M. BADAR, J.]