

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

Criminal Application No. 5464 of 2016

District : Jalna

Yogiraj s/o. Vinayak Hiwale,
Age : 25 years,
Occupation : Labour,
R/o. Devalgaontad,
Taluka : Bhokardan,
District : Jalna.

.. Applicants.

versus

The State of Maharashtra,
Through its Investigation Officer,
Police Station, Hasanabad,
Taluka : Bhokardan,
District : Jalna.

.. Respondent.

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Mr. R.J. Nirmal, Advocate, for the applicant.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 18TH OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 0047/2016 registered with Hasnabad Police Station, Taluka Bhokardan, District Jalna, for offences punishable under Sections 318, 376 of the Indian

Penal Code and under Sections 3 & 4 of the Protection of Children From Sexual Offences Act, 2012, is seeking his release on bail.

2. Heard the learned Counsel appearing for the applicant / accused as well as the learned Addl. Public Prosecutor for the respondent / State.

3. The learned Addl. Public Prosecutor opposed the application by contending that the applicant had committed rape on his minor sister-in-law and subsequently got herself impregnate. According to the learned Addl. Public Prosecutor, then pregnancy of the minor female victim was terminated and dead foetus was disposed of in order to conceal the birth.

4. Perused papers of investigation. The crime in question was lodged on the basis of report lodged by Anil s/o. Jagannath Lokhande, owner of the betel kiosk at Rajur. He reported that on 17.07.2016, he found that a foetus was wrapped in a white bag and thrown behind his shop. During investigation it was found that the applicant had committed rape on his minor sister-in-law resulting in her pregnancy and indulging in termination of her pregnancy. He then disposed of the foetus by throwing it behind the shop of the informant.

5. Perusal of papers of investigation goes to

show that subsequently the minor female victim who is stated to be 17 years of age, was married to the present applicant by her parents. Statement of first wife of the applicant also reflects this fact. She is sister of the minor female victim.

6. Be that as it may, now it is seen that almost entire investigation is over. Statements of witnesses are recorded, articles are seized and are sent for chemical analysis. Therefore, further pre-trial detention of the applicant is not warranted.

7. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 25,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, applicant / accused shall abide by the following directives :-

(i) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the

Court or to any police officer.

(ii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial, in the event of filing charge-sheet, if any, against him.

(iii) The applicant shall not repeat commission of similar type of offences in future.

(d) The Application stands disposed of in the above terms.

(A.M. BADAR)
JUDGE

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