

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

Criminal Application No. 5670 of 2016

District : Ahmednagar

Rauf s/o. Hasan Bagwan,
Age 34 years,
Occupation : Fitter,
R/o. Newasa (Kh.),
Taluka Newasa,
District Ahmednagar.

.. Applicant.

versus

The State of Maharashtra.

.. Respondent.

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Mr. Yunus B. Pathan, Advocate, for the applicant.

*Mr. S.B. Yawalkar, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 25TH OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No. I-147/2016 registered with Newasa Police Station, Taluka Newasa, District Ahmednagar, for offences punishable under Sections 376, 201 of the Indian Penal Code and under Section 3(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act 1989, by this application, is seeking his release

on bail after filing of the charge-sheet.

2. Heard the learned Counsel appearing for the applicant / accused. He drew my attention to papers of medical treatment of the prosecutrix to buttress his contention that except abrasions and minor injuries, the prosecutrix had not suffered any other injury. By drawing attention to the papers of medical examination of the prosecutrix, the learned Counsel argued that there was no injury to pelvic area of the prosecutrix. It is argued that at the time of the alleged incident, the applicant was present at his house and call detail record of his cellphone substantiates this fact.

3. The learned Addl. Public Prosecutor opposed the application by drawing my attention to the statement of the prosecutrix as well as statement of Jafar Pathan and memorandum of identification parade.

4. I have carefully considered the rival submissions and also perused the record made available. The incident alleged by the prosecution took place on 06.06.2016 and the FIR of the said incident was lodged by the prosecutrix on 07.06.2016. The prosecutrix is an adult lady of 45 years age having delivered two daughters prior to 22 years. On 06.06.2016, she was going for Darahsn of Goddess at Warkhed. She alighted at Newasa bifurcation and

could not get further means of transportation to Wakhed. She enquired about availability of means of transport to one person. He informed that no bus is available. Then, as per version of the prosecutrix, a young person aged about 25 - 30 years came and told her that he would drop her to Khadka bifurcation from where the prosecutrix will get further means of transport for going to Warkhed. The prosecutrix then accompanied that person on his motorcycle. As per version of the prosecutrix, the said person took her to a secluded place and in a ditch committed rape on her causing injury to her knee.

5. During identification parade, the prosecutrix has identified the present applicant as a person who had committed rape on her. Jafar Pathan is a person with whom the prosecutrix had enquired about means of transportation to Warkhed. Jafar Pathan in his statement had stated that the present applicant gave lift to the prosecutrix and took her with him.

6. It is well settled that in case of rape, finding of guilt can be recorded on the basis of sole testimony of the prosecutrix. In such cases, the Court is not expected to sway away on the basis of minor discrepancies in prosecution case. In the case in hand, there is overwhelming evidence including

medical evidence to show complicity of the present applicant in the crime in question. Hence, no case for bail is made out.

7. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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