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

CRIMINAL APPLICATION NO.5827 OF 2016

Shaikh Mukhtar s/o Shaikh Nasir,
Age: 21 years, Occ: Labour,
R/o. Loni (Bk), Tq. Vaijapur,
Dist. Aurangabad.

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector;
Police Station, Vaijapur,
Dist. Hingoli.

..RESPONDENT

Ms Fatema Kazi, Advocate h/f Mr S.S. Kazi, Advocate
for applicant;
Mr V.S. Badakh, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 15th DECEMBER, 2016

ORAL ORDER :

The applicant, who has been arrested on 8th September, 2016 in connection with Crime No. I-244 of 2016 registered with Vaijapur Police Station, Taluka Vaijapur, District Aurangabad, for the offences punishable under Sections 376 and 363 of the Indian Penal Code, seeks his release on bail.

(2)

2. As per the first information report dated 8th September, 2016, the informant stated that she is a married lady having three children. On 2nd September, 2016 while going to Vaijapur in a white car, she met the applicant and along with him she went to Nanded. It is further stated that from 2nd September, 2016 till 7th September, 2016 the applicant established sexual relations with her and thereafter at about 1-00 p.m. on 7th September, 2016 her nephew came to Nanded and brought her back home. On that basis, the first information report came to be lodged and the applicant came to be arrested.

3. It is submitted by the learned Counsel for the applicant that the informant had willingly accompanied the applicant and only after the fact that she was residing with the applicant came to the knowledge of the relatives, present report has been filed. It is submitted that no attempt was made by the informant for about five days to raise

(3)

any protest. Only after her relatives found her, present report has been filed. It is, therefore, submitted that the applicant, who is behind the bars, for almost four months, deserves to be released.

4. The application is opposed by the learned Additional Public Prosecutor by relying upon the police papers. It is submitted that the statement of the informant indicates that she was taken away by the applicant and kept in his custody. Considering nature of offence and likelihood of pressure being exerted on the informant, it is submitted that the application deserves to be rejected.

5. Perused the police papers as well as the first information report. Same indicates that from 2nd September, 2016 till 7th September, 2016 the applicant and the informant stayed together along with her son. Thereafter when her nephew came to Nanded, he took her back and then the report came

(4)

to be lodged. The statement of the landlord where the applicant and the informant were residing does not indicate that the informant was residing there against her wishes. Considering the nature of allegations as made and the fact that the report has been lodged only on 8th September, 2016 with regard to the incident which occurred from 2nd September, 2016, I am inclined to allow the application.

6. In view of aforesaid, the following order is passed : -

(i) The applicant is directed to be released on bail in connection with Crime No. I-244 of 2016 registered with Vaijapur Police Station, Taluka Vaijapur, District Aurangabad, for the offences punishable under Sections 376 and 363 of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/-, with one surety in the like amount.

(ii) The applicant shall attend the concerned

(5)

police station as and when directed by the Investigating Officer.

(iii) The applicant shall not enter the limits of Loni village, Taluka Vaijapur, District Aurangabad till filing of the charge sheet.

(iv) The applicant shall not take any steps to influence the prosecution witnesses.

7. The observations made in this order are only for the purposes of deciding the present application.

8. Criminal Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)

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