

(1)

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

CRIMINAL APPLICATION NO. 5999 OF 2016

Eknath Tukaram Gangad,
Age: 22 years, Occu: Agri.,
R/o Kandadwadi (Khed),
Tq. Igatpuri, Dist. Nashik

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr R. K. Temkar, Advocate for applicant;
Mr A. D. Namde, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J

DATE : 8th December, 2016

ORAL ORDER :

The applicant who has been arrested on 4th February, 2016 seeks his release of bail pursuant to arrest in connection with Crime No. 6 of 2016 registered at Rajur Police Station, Taluka Akole, District Ahmednagar for offences punishable under Sections 376 and 506 of the Indian Penal Code.

2. As per the first information report dated 3rd February, 2016, one Vanita has reported that prior to eight months when she was alone washing clothes, her relative – present applicant had forcibly taken her inside the house and had intercourse with her.

(2)

Subsequently, said Vanita conceived and on 3rd February, 2016, present report came to be lodged.

3. It is submitted by learned Counsel for the applicant that considering the delay in lodging of the first information report, case of the informant, appears to be improbable. It is further submitted that for a period of eight months, the informant did not inform even her parents about the said incident. It is further submitted that entire investigation is complete and this Court, by an order dated 1st August, 2016 passed in Criminal Application No. 3652 of 2016, had granted liberty to the applicant to apply afresh after receipt of D.N.A. test report. It is submitted that as the place where the child of the informant was buried, could not be located, D.N.A. test has not been conducted.

4. The application is opposed by learned Addl. Public Prosecutor by relying upon documents on record. It is submitted that the applicant has been named by the informant and considering the nature of offence, he does not deserve to be released on bail. Reference is made to the affidavit filed by the Investigating Officer dated 5th December, 2016, in which inability to conduct the D.N.A. test has been stated.

(3)

5. Perused the first information report as well as the chargesheet. The report in question has been lodged after about eight months from the alleged forcible intercourse. It has been stated that after the victim had conceived, this fact was not told to anybody and only when labour pains started, this fact was disclosed.

6. Considering the delayed recording of the first information report and in view of the subsequent affidavit indicating inability to conduct the D.N.A. test, I do not find that further detention of the applicant is warranted. The applicant deserves to be released on bail subject to imposing conditions.

7. In view of aforesaid, the applicant is directed to be released on bail pursuant to his arrest in Crime No. 6 of 2016 registered at Rajur Police Station, Taluka Akole, District Ahmednagar for offences punishable under Sections 376 and 506 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall not enter the jurisdiction of Akole Tahsil, Dist. Ahmednagar, till completion of the trial. He shall not attempt to influence the victim or her relatives.

(4)

The applicant shall co-operate in completion of the trial.

Observations made in this order are only for deciding the application for bail. Criminal Application is accordingly allowed and disposed of.

**[A.S. CHANDURKAR]
JUDGE**

sjk