

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

CRIMINAL APPLICATION NO.6797 OF 2015

Sunil s/o Karbhari Jate,
Age: 35 years, Occ: Agri.,
R/o. Galnimb, Tq. Shrirampur,
Dist. Ahmednagar.

...Applicant

versus

The State of Maharashtra & ors

...Respondents

.....
Mr. C.K. Shinde, Advocate for applicant
Mr. S.M. Ganachari, A.P.P. for respondents
.....

CORAM : N.W. SAMBRE, J.

DATE : 7th JANUARY, 2016

ORAL ORDER :

The applicant is seeking pre-arrest bail in Crime No. I-115 of 2015 for the alleged incident dated 30/06/2015 for which F.I.R. came to be lodged on 06/07/2015 with Loni Police Station, District Ahmednagar, for the offence punishable under Sections 376 and 506 of Indian Penal Code.

2. Learned Counsel for the applicant would urge that the story narrated is improbable, as is apparent from plain reading of the contents of the F.I.R. He would then urge that the applicant is falsely implicated in the crime in question. He would then urge that consent

could be easily inferred from the contents of the F.I.R. and as only after Dattu witnessed the incident, F.I.R. came to be filed. The complainant has lodged F.I.R. after delay of six days.

3. Learned A.P.P. opposed the application on the ground that Dattu is an eye witness to the incident. Learned A.P.P. would then urge that prosecutrix in clear terms has named the applicant as an accused. According to him, custodial interrogation of the applicant is necessary.

4. Having perused the investigation papers and contents of the F.I.R., in my opinion, the story narrated in the F.I.R. is completely improbable apart from unexplained delay in lodging F.I.R.

5. The fact remains that Dattu is a ably bodied person, who has witnessed the incident, he could have immediately caught hold the applicant, particularly when Dattu is working as Coolie and is physically able person who happened to be step son of the complainant.

6. Apart from above, the probability of the incident as is taken place also raises doubt, as the prosecutrix left alone her house to answer nature's call at late night hours, though her daughter in law

wife of Dattu was present in the house.

7. *Prima facie* age difference between complainant and her husband and conduct of complainant prompt this court to infer consent.

8. In the light above, it will be appropriate, in my opinion, to grant protection to the applicant. Hence, following order:-

ORDER

(i) In the event of arrest, the applicant be released on bail, in connection with Crime No. I-115 of 2015 registered with Loni Police Station, District Ahmerdnagar for the offence punishable under Sections 376 and 506 of Indian Penal Code, on executing P.R. bond of Rs.25,000/- with one surety in the like amount.

(ii) The applicant shall attend the concerned police station daily on 18th, 19th, 20th, 21st, 22nd and 23rd January, 2016 between 10-00 a.m. 12-00 noon and thereafter as and when called by the Investigating Officer.

(iii) Till filing of the charge sheet, the applicant shall keep himself away from the jurisdiction of the

concerned police station but for the attendance and shall not tamper the prosecution evidence.

9. The application is allowed in above terms.

[N.W. SAMBRE, J.]