

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.172 OF 2016

Ramdas S/o. Ratan Mandawade	...	Applicant
Vs.		
The State of Maharashtra & Ors.	...	Respondents

Mr. Priteshkumar Jain, Adv. for the applicant.
Mrs. D.P. Adsule, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 4th March, 2016.

P.C. :

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No.1 of 2016 for offences punishable under Sections 323, 376, 452, 504 & 506 of IPC and under Sections 3(1) 11, 3(1) 12 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The allegations against the applicant in brief are that on 14th October, 2015 at about 6 pm while the prosecutrix was alone in the house the applicant entered the house and raped her.

3. Mr. Jain, the learned counsel for the applicant has submitted that the applicant has been falsely implicated and that

since the investigation is completed the presence of the applicant is not required in custody. In support of this contention he has relied upon the decision of the Apex Court in *Abhijeet Sharad Patil Vs. The State of Maharashtra, Laws (BOM)-2008-2-226* and *Shine S Ahuja Vs. The State of Maharashtra, ALL M R (Cri) 2010-0-92*.

4. Mr. Adsule, the learned APP for the State has submitted that the material on record prima facie indicates that the applicant has committed offence as alleged. The learned APP has further submitted that the evidence has not commenced and the applicant is neighbour of the prosecutrix and that releasing the applicant at this stage will hamper the trial.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The FIR prima facie reveals that the applicant is the neighbour of the prosecutrix. On 14th October, 2015 at about 6 pm while the prosecutrix was alone in the house, the applicant entered the house and had forcible sexual intercourse with her. The prosecutrix has stated that her brother-in-law had rescued her from the clutches of the applicant. The statement of the brother-in-law of

the victim also prima facie reveals that on 14th October, 2015 at about 6 pm he had heard prosecutrix shouting for help and when he had entered the house, he had seen the applicant committing rape on the victim. The statement of this witness also corroborates the contention of the prosecutrix that he had rescued her from the clutches of the applicant.

6. The material on record prima facie reveals that the applicant herein had committed rape on the prosecutrix. The material on record also prima facie reveals that the prosecutrix belonged to SC and ST. The applicant is the neighbour of the prosecutrix and the evidence of the prosecutrix is not yet recorded. Releasing the applicant on bail at this stage can hamper the trial and thwart the course of justice. In the light of the above the decisions relied upon by the learned counsel for the applicant are not applicable to the facts and circumstances of the present case.

7. Under the circumstances and in view of the discussion supra, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)