

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1655 OF 2016

Yashwant Dattatraya Jagtap

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kuldeep Patil i/b Mr. Arjun S. Pawar Advocate for Applicant.  
Ms. Veera Shinde APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATED : SEPTEMBER 7, 2016.**

**PC :**

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 25/05/2016 in crime no. 211 of 2016 registered at Kondwa Police Station on 25/05/2016 for offence punishable under section 376, 506 of the Indian Penal Code and under Sections 3(1) (w) (I), 3 (2) (va), 3 (2) (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. Investigation is completed and charge-sheet is filed on 12/07/2016. Case registered as Atrocity Special Case No. 34 of 2016.

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2) It is the case of the prosecution that on 25/05/2016, prosecutrix who belongs to scheduled caste, lodged a report at the police station alleging therein that she is the mother of two children namely Vaishnavi and Kiran who are aged about 10 & 7 years old respectively. That the Applicant herein happens to be her one door neighbour. Applicant is fully aware that complainant belongs to scheduled caste. According to her, 5 – 6 months prior to the date of filing of F.I.R., Applicant had entered into her house forcefully. That he had asked her children to bring tobacco for him and then in the absence of her husband and children, she was ravished by present Applicant. He had threatened her of dire consequences. That he had continued to trouble her and that he had ravished her on several occasions against her wish. According to her, in the last week of May 2016 her husband had enquired with her as to why the Applicant visits their house in his absence and that was the first time when she had disclosed to her husband that she is being ravished by the Applicant against her will. She had also informed him that she could not disclose the said incident to her husband, since he had threatened that he would cause harm to her husband and children.

3) On 28/05/2016, Applicant was called upon A.C.P. of Wanawadi police

station for enquiry. He had disclosed to the police that he had intimate relations with the complainant since more than one year. According to him, they had consensual sex not only in the house of the complainant, but as well as in his house, in the absence of his wife and other family members. It is apparent that the statement was recorded while in custody and that the statement appears to be signed by the Applicant.

4) The learned counsel for the Applicant submits that the papers of investigation would clearly indicate that there was consensual sex. There are no other incidents alleging offence against the Applicant as far as atrocities Act is concerned. The learned counsel for the Applicant further submits that F.I.R. itself indicate that only because the husband of the complainant had enquired with her in respect of the visit of the Applicant to her house, she was constrained to lodge F.I.R. and implicate the present Applicant.

5) Taking into consideration the nature of allegations, papers of investigation and the submissions advanced across the bar, Applicant deserves to be enlarged on bail. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

**ORDER**

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- 6) Application stands disposed of.

**(SMT. SADHANA S. JADHAV, J.)**