

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1669 OF 2016

Shayan Amir Dhanse & Anr.	... Applicants.
Versus	
The State of Maharashtra	... Respondent.

Mr. Vikas K. Singh i/b. Lambay & Co. for Applicants.
Ms. J. S. Lohokare, APP for State.

CORAM : A.S. GADKARI, J.
DATE : 15TH OCTOBER, 2016.

P.C. :

1] This is an application under Section 439 of Code of Criminal Procedure (CrPC) for bail in CR.No.I-46 of 2016 dated 28/02/2016 registered with Shil Daighar Police Station, Taluka Kalyan, District Thane under Section 376 read with 34 of India Penal Code (IPC).

2] Heard the learned counsel for the applicants, the learned APP and also perused the entire Charge-sheet annexed to the application.

3] The First Information Report (FIR) is lodged by

Smt.Tahsin Raes Khatik, aged 30 years for the alleged offence as contemplated under Section 376(d) read with 34 of IPC against the applicants. On the basis of the FIR, the Police investigated the said crime. The applicants are arrested on 01/03/2016. During the course of investigation the statement of the first informant under Section 164 of CrPC has been recorded by the 8th JMFC, Thane on 14/03/2016. After completion of investigation the Police has submitted the Charge-sheet.

4] Learned counsel for the applicants submitted that there is a vast variance in the FIR dated 28/02/2016 and the statement of the first informant recorded under Section 164 of CrPC on 14/03/2016. The learned counsel for the applicants submitted that the first informant did not mentioned the vital and necessary aspects pertaining to the crime in her FIR and in her statement recorded under Section 164 of CrPC has improved the case to such an extent that it creates doubt about her first statement.

5] After perusing both the statements, I find substance in the said submission of the learned counsel for the applicants. It appears that the first informant in her statement dated 27/02/2016 did not mention the vital aspects of the crime and subsequently in her

statement recorded under Section 164 of CrPC has mentioned additional things including the fact that the applicant No.1 administered her stupefying substance before committing rape on her.

6] In view of the above, the applicants have made out a case for their release on bail.

Hence the following order;

- a) The applicants be released on bail in CR.No.I-46 of 2016 registered with Shil Daighar Police Station, Taluka Kalyan, District Thane on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.
- b) After their release from bail, the applicants shall attend the Shil Daighar Police Station, Taluka Kalyan, District Thane on every first Monday of the month between 11.00 am to 2.00 pm.
- c) The applicants shall also attend all the dates before the trial Court.
- d) Any consecutive default to comply with the afore-stated provision shall attract provisions of cancellation of bail.
- e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)