

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

CRIMINAL BAIL APPLICATION NO. 2157 OF 2015

Sukdeo Dhinganrao Shekhare ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Satyajeet R. Dighe for the Applicant
Mrs. R.M.Gadhvi, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : JANUARY 29, 2016.**

P.C.

1. This is an application for bail filed by the applicant who has been arrested in Sessions Case NO. 138 of 2015 pending before the Sessions Court, Nashik.
2. The case of the prosecution in brief is that the applicant along with other co-accused had subjected the prosecutrix to rape by threatening her that they would not return her educational certificate. The said crime was registered pursuant to the FIR dated 13.6.2015 lodged by the prosecutrix. The applicant herein was

arrested on 14.6.2015. The said crime was investigated and upon completion of investigation chargesheet was filed. The said case being Sessions triable, has been committed to the Sessions Court, Nashik. The applicant has filed application before the Addl. Sessions Judge, Nashik which came to be dismissed vide order dated 9.10.2015. Hence the present application.

3. Mr. Dighe, the learned counsel for the applicant has submitted that the prosecutrix is major and that the FIR does not disclose that the applicant herein is involved in committing the offence under Section 376 of IPC. The learned Counsel for the applicant submitted that the applicant has been falsely implicated. He submitted that his presence is not required in custody and that he be released on bail.

4. The learned APP submits that the prosecutrix has alleged that she had been raped by both the accused mentioned in the FIR, and the offence is of serious nature and hence the applicant is not entitled for bail.

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 prosecutrix is a minor. The FIR lodged by her

prima facie indicates that she was friendly with Sanjay Shekhre, the brother of the applicant since about 8-9 years prior to lodging of the FIR. The prosecutrix has stated that there is dispute between Sanjay Shekre and the present applicant. She has further stated that on 4.10.2014 the applicant and his friend, the co-accused, Vora approached her and told her to assist them in killing said Sanjay Shekre. She has stated that when she refused to do so they asked her to give her educational certificates and told her that they would not return her the educational certificates till she helped them in causing death of said Sanjay Shekhre. The prosecutrix has stated that on 5.10.2014 the applicant herein had called her to his room at Thakurwadi and then she was taken to Dhamangaon, Igatpuri under the pretext that he would return the educational certificate and thereafter they took her to one room and latched the room from outside. She has stated that she was raped by the co-accused Gorak Bendkule. She has stated that said Gorak Bendkule had committed rape on her on 4-5 occasions under the pretext of returning the educational certificates. She has stated that the applicant herein had assisted the co-accused Gorak on every such occasion. She has

stated that she had succumbed to their threats as the applicant and the co-accused had refused to hand over her the educational certificate.

6. The records prima facie reveal that the prosecutrix is major. The FIR itself indicates that she was friendly with one Sanjay Shekhre who is brother of the applicant and there is a dispute between Sanjay and the present applicant. Though the prosecutrix has stated that the applicant and said Gorak had subjected her to rape on several occasions, the prosecutrix had not lodged any complaint before any authority, and had also not disclosed the incident to any other person.

7. The applicant is in custody since 14.6.2015. The nature of the allegations leveled against the applicant do not justify further custodial detention. The applicant is a permanent resident of Shahapur, Thane. There is no possibility of the applicant absconding or thwarting the course of justice.

8. Considering the above facts and circumstances, the application is allowed on following terms and conditions:

i) The applicant abovenamed be released on bail on furnishing

bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Sessions Judge, Nashik.

ii) The applicant shall furnish had temporary as well as permanent address to the Investigating Officer. The Investigating Officer shall verify the same before the applicant is released on bail.

iii) The applicant shall attend each and every date of hearing before the Sessions Court.

iv) The applicant shall not interfere with the prosecutrix or any other witnesses and shall not tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)