

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2308 OF 2016

Mahadev Bapurao Londhe

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ritesh Thobde Advocate for Applicant.

Mr. R. M. Pethe APP for the State.

Mr. N. G. Badakh, API, Karmala Police
Station, Dist. Solapur.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 13th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 09/08/2016 in crime no. 338 of 2016 registered at Karmala Police Station. Investigation is completed and charge-sheet is filed against the present applicant for offence punishable under sections 376, 323, 504 and 506 of the Indian Penal Code.

2) It is the case of the prosecution that on 04/08/2016, Mrs 'X' wife of Subhash Shinde lodged a report at the police station alleging therein that she

is working as an agricultural labour for the past 3 years, in the land of Dattatraya Moholkar. She is the mother of two daughters. According to her, on 03/08/2016, she was working in the land, at that time, the landlord namely Dattatraya Moholkar was also tilling the land at his fracture. At about 6.00 p.m., present applicant had dragged her and had solicited sexual favours. He had assaulted her with fist and kick blows. She had raised hue and cry and upon hearing cries Dattatraya had reached the spot. He had inquired with her. That Mahadev i.e. present applicant had threatened Dattatraya also. It is also alleged that the applicant wanted to record her statement to the effect that she has illicit relation with Dattatraya Mohokar. He has recorded the audio on his cellphone. The learned counsel for the applicant has drawn the attention of this Court to the statement of Dattatraya Moholkar who has stated that in fact, he had witnessed that applicant and the complainant were quarreling in the midst of the sugarcane crop. It is contended that upon inquiry, she has disclosed to him that she has been ravished by the present applicant. In fact, all that is stated is he witnessed a quarrel between them.

3) The learned counsel for the applicant submits that upon perusal of the compilation of the charge-sheet it appears that it was consensual sex,

however, only because Dattatraya Moholkar had appeared at the scene and had seen the applicant in the company of the complainant, she has concocted a story that she had been ravished by the applicant.

4) Upon perusal of the papers of investigation, this Court is of the opinion that applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 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. 50,000/- with one or more solvent sureties in the like amount.
- (iii) Applicant shall not reside within the local jurisdiction of Karmala Police Station till the conclusion of the trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)