

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.786 OF 2016
(Sopan @ Umesh s/o Mohan Pujari vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri R.D. Karode, Advocate for applicant.

Shri H.D. Dubey, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 05, 2016

Heard learned Counsel for both sides.

This application is filed by applicant for
grant of bail in Crime No.127/2016 registered by
Kalamna Police Station, Nagpur for the offences
punishable under Sections 363, 376-D, 342 and 323 read
with Section 34 of Indian Penal Code and Section 4 of
Protection of Children from Sexual Offences Act, 2012.

Shri Karode, learned Counsel for applicant,
submits that since investigation is complete and charge-
sheet is filed, there is no purpose in keeping applicant
behind bar pending trial.

Shri Dubey, learned Additional Public
Prosecutor has opposed the application on the ground
that there is direct evidence establishing involvement of
applicant.

The learned Counsel for applicant, during
the course of arguments could not point out any fact,
which could be considered in favour of applicant to

release him on bail pending trial. On the contrary, on going through the report, it is found that on 8/5/2016, at about 8 p.m. when prosecutrix was returning along with her younger sister from her friend's house, applicant along with co-accused Om came from behind on motor-cycle and forcibly lifted her and made her sit in between them on the motor-cycle and took her in one room made of tin-sheets behind Kirti Restaurant. She has further stated that she was then forcibly taken in that room where applicant committed sexual assault upon her while co-accused was present outside and entered the room after 10-15 minutes and thereafter both of them manhandled her by giving fist blows. It is further noted from the report that when prosecutrix was running on Bharatnagar road, she met her friend, namely, Raushabh, to whom she narrated the incident and he brought her to Police Station.

The age of prosecutrix as per medical report is 16 years. According to medical documents, she is stated to be subjected to sexual intercourse and is also found to have sustained one abrasion on linear admeasuring 0.5 cm. Statement of Raushabh corroborates material contents of case of prosecutrix. It is noted that she immediately after the incident has made disclosure of rape upon her by applicant. Similarly, statement of Vijayprakash Walke corroborates contents of the report wherein he has stated that on 8/5/2016 at about 7.30 p.m. co-accused Om arrived in his room and took him out of said room on the pretext of offering him tea and thereafter further offered him to

accompany him for consuming liquor and as such, kept him away from his room. He has further stated that co-accused Om made him sit in Kirti Restaurant and after sometime, came back to him. His statement does establish that applicant along with co-accused Om had taken prosecutrix in a room and had deliberately on the false pretext took away occupant of said room for sometime and during that time, applicant committed rape on prosecutrix.

Having considered direct evidence as above against applicant, the criminal application is devoid of merits and hence, the same is rejected.

JUDGE

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