

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 184 OF 2017

Sominath s/o Sukhdeo Changhate,
Age 42 years, Occu. Agri.,
R/o Pimarkheda, Taluka Gangapur,
District Aurangabad

..Applicant

Versus

The State of Maharashtra,
through Police Station
Incharge, Waluj Taluka Gangapur
District Aurangabad

..Respondent

Mr N.K. Kakade, Advocate h/f Mr A.N. Kakade, Advocate for applicant
Mr S.M. Ganachari, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st February 2017

PER COURT

1. The applicant is seeking regular bail in C.R.No.314/2016, registered at M.I.D.C. Waluj Police Station, Taluka Gangapur, District Aurangabad, for the offences punishable under Sections 376, 452, 506 of the Indian Penal Code.

2. It is claimed that on 29th November 2016, the present applicant has committed an offence punishable under Section 376 of the Indian Penal Code for which the first information report is lodged on 4th December 2016.

3. Perusal of the investigation papers and other material available on record depict that there is no explanation for delayed first information report.

4. Apart from above, perusal of the contents in the backdrop of requirement of Sections 376 and 376 of the Indian Penal Code if analysed, whether the offence in question could be covered within the definition of rape, is also an issue which is required to be appreciated.
5. Apart from above, there appears differences between the husband of the complainant and brother of the applicant, as such false implication cannot be ruled out.
6. Though investigation in the matter is not complete, however, upon arrest of the applicant, he was subjected to custodial interrogation.
7. Having noted from the contents of first information report that prima facie offence under Sections 376 and 376 of the Indian Penal Code is not attracted, in my opinion, case is made out for grant of bail.
8. As such, Criminal Application stands allowed.
9. The applicant be released in C.R. No.314/2016, registered at M.I.D.C. Waluj Police Station, Taluka Gangapur, District Aurangabad, for the offences punishable under Sections 376, 452, 506 of the Indian Penal Code, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.
10. The applicant shall not influence the prosecution witnesses and shall not tamper with the prosecution evidence.

11. The applicant shall keep himself away from the jurisdiction of M.I.D.C. Waluj Police Station, Taluka Gangapur, District Aurangabad, till filing of charge-sheet.

(N.W. SAMBRE, J.)

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