

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

CRIMINAL APPLICATION NO. 1505 OF 2017

Mohammed Mujeebuddin s/o. Md. Azizuddin Qazi..Applicant

Versus

The State of Maharashtra

..Respondent

Mr.Shrikant Kulkarni, Advocate for the applicant.

Mr.A.R. Borulkar, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : 11.04.2017

P.C. :-

1. This application is filed for anticipatory bail. Both sides are heard. Papers of investigation are made available for perusal of this Court, by the learned A.P.P.

2. When this Court made enquiry about having the consideration amount with the applicant, an extract of account of wife of the applicant came to be produced. Complainant-Ayesha is sister of wife of present applicant. Her parents are dead. She has made allegation

that present applicant has grabbed her property worth in crores of rupees. She has specifically given numbers of agricultural lands, which were standing in her name.

3. It is contention of the prosecutrix that the things started from May, 2005 when first time the applicant raped her. It is her case that due to wish of her sister i.e. the wife of present applicant and due to her instigation, the relationship was continued and out of fear she did not disclose the incident to anybody. She was living in a house with the applicant for many years. It is case of the complainant that present applicant had not only kept physical relationship with her but he obtained her signatures on many documents and stamp papers to grab her property. She does not know as to what was written on those documents. It is her case that no consideration was paid to her. The report was given on 22.02.2017.

4. The learned Counsel for the applicant submitted

that some documents were executed and consideration had passed to the complainant. One such document is produced on record at page No.19, which is a General Power of Attorney. The document dated 18.10.2017 shows that for getting right in respect of land Survey No.222/3, consideration of Rs.14.45 lakh was shown to be paid to the complaint. In view of these circumstances, this Court had asked the present applicant to show the record that such amount was with the present applicant and whether the amount was really paid to the complainant. An account extract is produced in respect of account of wife of the applicant. She was having an amount of approx. Rs.14 lakh in her account from April, 2014 to November, 2014. However, the record is not produced to show that any amount was paid to the complainant from this account. This circumstances is sufficient to create probability that the applicant and his wife virtually grabbed property of the complainant. Thus, allegations not only constitute offence of rape but of cheating against the present applicant. The property and money needs to

recovered and custodial interrogation of the accused is must in such case.

5. The learned Counsel for the applicant submitted that the prosecutrix avoided to subject herself to medical examination. However, this circumstance is not helpful to the applicant. When there is allegation of rape, it is for the Court to believe the prosecutrix or not. In any case, it is not necessary to have corroboration of the medical evidence in every case for proving the rape. A poor lady is cheated and this Court holds that discretion cannot be used in favour of the applicant.

6. The Criminal Application stands rejected.

[T.V. NALAWADE, J.]