

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

12 CRIMINAL APPLICATION NO. 1618 OF 2017

RAGHUNATH ARJUN RAJPUT
VERSUS
THE STATE OF MAHARASHTRA

Shri. Dhananjay B. Thoke, Advocate, for applicant.

Shri. M.M. Nerlikar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 17 April 2017

ORDER:

1) The application is filed for relief of anticipatory bail. Both the sides are heard. Papers of investigation were made available to this Court by the learned Additional Public Prosecutor.

2) The present applicant is cousin of the husband of the prosecutrix. The age of the prosecutrix is 24 years. The age of the present applicant is 45 years. Allegations are made that in the night between 11-12-2016 and 12-12-2016 when the prosecutrix was sleeping in her house with

her husband, mother-in-law and two kids, after mid-night somebody pressed her mouth. She felt that it was her husband. Allegation is made that said man then committed sexual intercourse with her but when he started to take her outside of the house, she suspected that said man was not her husband. She started shouting. It is her case that when she started shouting said man ran away but she saw her face in the street light and she realised that it was the present applicant. The inmates of her house woke up. She disclosed the incident to them. The report came to be given on 13-12-2016 and crime came to be registered for offences punishable under sections 376(2)(g), 452 of the Indian Penal Code.

3) There are statements of the inmates and the neighbours of the prosecutrix and there is record like demonstration panchanama showing that it was possible to open the door by using the opening near the door. The learned counsel for the applicant submitted that the report was given one day after the incident and so there is delay in giving the report. He further submitted that the story given by the prosecutrix is highly improbable in

nature. He submitted that as the story is not probable in nature and as no stranger could have entered in the house of the prosecutrix when it was closed by latches from inside, relief of anticipatory bail needs to be granted to the applicant.

4) The applicant is close relative of the prosecutrix and there are aforesaid circumstances. In view of these circumstances, this Court holds that discretion cannot be used in favour of the applicant and custodial interrogation is necessary in the matter. In the result, the application stands rejected.

Sd/-
(T.V. NALAWADE, J.)

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