

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

CRIMINAL APPLICATION NO. 2095 OF 2017

Abdul Bari Abdul Hafiz
Qureshi
(at present in jail) ... Applicant

VERSUS

The State of Maharashtra ... Respondent

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Mr. R.N.Dhorde, Senior Advocate i/b
Mr. V.R.Dhorde, advocate for the applicant
Mr. A.A.Jagatkar, A.P.P for respondent

.....

WITH

CRIMINAL APPLICATION NO. 2096 OF 2017

[Munnawar Mehboob @ Mehboob Qureshi vs The
State of Maharashtra]

CORAM : K.L.WADANE, J.

DATED : 7th JUNE, 2017

O R D E R :

Heard Mr. R.N.Dhorde, learned Senior
counsel i/b Mr. V.R.Dhorde, advocate for the
applicant and Mr. A.A.Jagatkar, learned A.P.P. for
the respondent.

2. The applicant prayed for regular bail
under Section 439 of the Criminal Procedure Code

in connection with Crime No. 4 of 2017, registered at Sangamner City police station, District Ahmednagar, for the offences punishable under Sections 376, 452, 354(A)(I), 504, 506 of the Indian Penal Code.

3. Victim prosecutrix lodged complaint with the police station on 7.1.2017 alleging that on 21.12.2016 at about 9.00 p.m. when she was alone in her house, accused Abdul Qureshi entered into her house and kissed her and thereafter he ran away from the house. On 31.12.2016 another accused Munnawar entered into house, latched the door from inside, pressed her mouth and committed rape on her and ran away.

4. On 1.1.2017 at 00.30 hours accused Abdul came in her house and committed rape. On second day the accused Munnawar gave threat to the victim that if she disclosed the incident to anybody he will commit murder of her husband.

5. Prosecutrix is major and married lady. Considering the nature of allegations against both the applicants, it appears that the conduct of

prosecutrix is unnatural. If at all the accused persons have committed rape against her will then certainly it was expected to lodge complaint immediately after the incident. According to the prosecutrix the incident of rape or outraging modesty is between 29.12.2016 to 1.1.2017. The first information report is lodged after about six days after last incident on 1.1.2017. On perusal of medical papers, it appears that there are no external injuries over the private part and on the person of the prosecutrix. So also, it appears from the medical certificate that the prosecutrix is habituated to sexual intercourse.

6. During investigation, the accused persons were arrested. Both of them were in the police custody. Now charge sheet is filed.

7. Looking to the facts and circumstances of the case, prima facie it appears that complainant may be consenting party to the incident.

8. The above observations are prima facie in nature for the purpose of decision of this bail application and it shall have no bearing at the

time of final disposal of the Sessions trial.

9. In view of above, both Criminal Applications are allowed.

(i) Applicants are released on bail in connection with Crime No. 4 of 2017, registered at Sangamner City police station, District Ahmednagar, for the offences punishable under Sections 376, 452, 354(A)(I), 504, 506 of the Indian Penal Code on furnishing P.R. bond of Rs. 25,000/- each with one surety in the like amount.

(ii) Applicants shall not tamper the evidence of prosecution in any manner.

(ii) Applicants are directed not to enter the area in which the prosecutrix or the witnesses are residing.

(iv) Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm/crap2096.17