

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2027 OF 2017
WITH
CRIMINAL APPLICATION NO. 2125 OF 2017

Vijay s/o. Bapurao Avhad **....Applicant.**

Versus

The State of Maharashtra & Anr. **....Respondents.**

WITH
CRIMINAL APPLICATION NO. 1873 OF 2017

Prabhakar s/o. Govind Avhad **....Applicant.**

Versus

The State of Maharashtra & Anr. **....Respondents.**

WITH
CRIMINAL APPLICATION NO. 1889 OF 2017

Kalidas s/o. Suryabhan Avhad **....Applicant.**

Versus

The State of Maharashtra & Anr. **....Respondents.**

Mr. K.D. Bade-Patil, Advocate for applicants.

Mr. R.V. Dasalkar, APP for respondents.

Mr. Sandeep Andhale h/f. Mr. A.G. Ambetkar, Advocate for
assisting APP.

CORAM : T.V. NALAWADE, J.
DATED : April 26, 2017.

ORDER :

1. Criminal Application Nos. 2027/2017, 1873/2017,

and 1889/2017 are filed for relief of anticipatory bail. Both the sides are heard. This Court has perused the papers of investigation.

2. Criminal Application No. 2125/2017 is filed for original complainant for permission to assist the learned APP. Criminal Application No. 2125/2017 is allowed. Learned counsel Shri. Sandeep Andhale h/f. Mr. A.G. Ambetkar was allowed only to assist the learned APP.

3. The crime is registered on the basis of report given by the prosecutrix on 1.3.2017 to Pathardi Police Station, Tahsil Pathardi, District Ahmednagar at C.R. No. 127/17 for the offences punishable under sections 376, 313, 34 etc. of Indian Penal Code. The prosecutrix has made allegations that 15 days prior to Diwali festival of the year 2016, one Dattatraya of her village took forcibly to his residential place where he was alone and he raped her. She has made allegations that under threat, he established physical relationship with her and he took sexual intercourse on many occasions. It is her case that few days prior to the date of F.I.R., when she had pain in abdomen, she went to hospital and there, doctor declared that she was pregnant.

4. It is the case of prosecutrix that on 27.2.2017 at about 2.00 p.m. Prabhakar Avhad and Kalidas Avhad, applicants from Criminal Application Nos. 1873/2017 and 1889/2017 called her to the house of Vijay Bapurao Avhad, applicant from Criminal Application No. 2027/2017 and there Vijay Avhad gave threat to her that she should terminate the pregnancy. It is her version that due to fear of Vijay Avhad, in the vehicle of Vijay Avhad with her relatives and with the relatives of said Dattatraya, she went to Hodshil, where in one dispensary her pregnancy was terminated. It is her case that threats were given to her that she should leave the village and after that she left. Thus, the abortion took place on 27.2.2017 and she gave report on 1.7.2017. At the end of report, she has made omnibus allegations against Prabhakar and Kalidas that they also gave threat to her.

5. The submissions made show that Vijay Avhad is the leader in the village and that is why, he was called as Sarpanch in the F.I.R. It can be said that there are allegations against him for commission of offence under section 313 of I.P.C., which is punishable with imprisonment for 10 years. As he acted as leader, this Court holds that protection cannot be given to him. There is probability that Prabhakar and Kalidas are workers of

Vijay and they acted at the instance of Vijay. There are no antecedents as against Kalidas and Prabhakar, but as against Vijay there are bad antecedents. In view of these circumstances, this Court holds that protection needs to be given to Kalidas and Prabhakar.

6. In the result, Criminal Application No. 2027/2017 is rejected.

7. Criminal Application Nos. 1873/2017 and 1889/2017 are allowed and interim relief granted in favour of applicants from those proceedings is confirmed.

[T.V. NALAWADE, J.]

SSC/