

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

CRIMINAL APPLICATION NO. 2307 OF 2017

Eknath s/o Daulatrao Nikalje **... Applicant**
Age 66 Years, Occu: Pensioner
R/o Bhapkal, Tq. & Dist. Jalna

VERSUS

The State of Maharashtra **... Respondent**
Through Police Station Maujpuri,
Taluka and District Jalna

Mr.Sudarshan J. Salunke, Advocate for the applicant
Mr. S. B. Joshi, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 13th June, 2017

ORDER:

1. Heard Mr. Salunke, learned counsel for the applicant and Mr. Joshi, learned APP for the State.

2. This application is filed under section 439 of the Criminal Procedure Code for regular bail in connection with Crime No.64/2017, registered with Maujpuri Police Station, Taluka and District Jalna on 09.04.2017 for the offences punishable under Sections 376, 323 and 506 of the Indian Penal Code.

3. As per the report, victim lady is of 22 years. She is a married women, deserted by her husband and residing with her mother at village Peerkalyan, Tq. & Dist. Jalna. On 07.04.2017, when she was going to Jalna

for collecting salary of her Mother, the accused applicant assured her to drop her at Jalna on his motorcycle and bring her back to the village. Due to the assurance, the prosecutrix accompanied the applicant on his motorcycle. Further, it is alleged that instead of going to Jalna, the applicant taken the prosecutrix to the house situated in his field and under the threat of life, he tied her legs and hands, removed her clothes and committed sexual intercourse with the prosecutrix. When, she resisted, the applicant assaulted her with wooden stick. On the basis of information given by the prosecutrix, offence came to be registered as stated above.

4. Perused the papers of investigation. From the same, it appears that the first information report was delayed by two days. Furthermore, no circumstance is appearing from the record that the prosecutrix resisted at the time of commission of the alleged offence. Instead of Jalna, when she was taken to the field of the applicant accused, no resistance was made by the posecutrix nor she had shouted for he help.

5. Looking to the circumstance, Mr. Salunke, the learned counsel appearing for the applicant submits

that there are reason to believe that the prosecutrix was a consenting party to the sexual intercourse. During the course of investigation, the applicant was arrested and after police custody, he was remanded to MCR. The applicant was available for the interrogation. The applicant is old person, aged about 66 years and residing at village R/o Bhapkal, Tq. & Dist. Jalna, whereas, the prosecutrix is residing at Peerkalyan, Tq. & Dist. Jalna. The applicant appears to be relative of the prosecutrix.

6. Learned APP submits that the prosecutrix was detained for about two days and therefore she did not file the first information report immediately after the incident. Again it is material to note that there is no evidence to show that during the detention period of two days, she has tried to escape from the place or resisted the act of the applicant. Further, it appears that she did not disclose this incident to anybody for two days. The applicant was available for custodial interrogation and the investigation is almost over. Only the charge-sheet is remained to be filed.

7. In view of the above, I am of the opinion that the applicant can be enlarged on bail by putting

certain conditions. Hence following order:

O R D E R

- i. The applicant shall be released on bail on his furnishing personal bond of Rs.25,000/-(Rupees twenty five thousand) with one solvent surety of like amount.
 - ii. The applicant shall attend Maujpuri Police Station, Taluka and District Jalna once in a week i.e. on every Monday between 10 a.m. to 12 noon till filing of the charge-sheet.
 - iii. The applicant shall not enter the limits of Jalna Taluka till filing of the charge-sheet, except for the purpose of attendance of the Police Station.
 - iv. The applicant shall not tamper with prosecution evidence in any manner.
8. Criminal application is disposed of.

(K. L. WADANE, J.)

JPC