

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

CRIMINAL APPLICATION NO. 2543 OF 2017

Ashok s/o Ganpatrao Dhawale ... Applicant

VERSUS

The State of Maharashtra ... Respondent

.....
Mr. G.G.Kadam, advocate for the applicant
Mr. K.N.Lokhande, A.P.P for respondent
.....

CORAM : K.L.WADANE, J.
DATED : 12th JULY, 2017

O R D E R :

Heard learned counsel for the applicant
and learned A.P.P. for the respondent.

2. On 20.2.2017 one Mr. Dixant Hari Patil
lodged complaint to Bhagyanagar police station,
Nanded alleging that on 14.2.2017 at about 3.00
p.m. the victim girl went to the house of accused
for taking book. The accused took her inside the
house and bolted the door from inside and fell her
on the cot. He slept on her body and inserted his
finger into her vagina. When the victim girl
shouted the accused pressed her mouth. On

somebody's knocking the door of the house, the accused put on his clothes and allowed her to go from the other door of the house. On the basis of information given by the informant, offence came to be registered against the applicant.

3. Learned counsel appearing for the applicant stated that there are contradictions in the statement of witnesses who disclose about the incident. He further submits that the first information report is delayed by six days even after knowledge of the incident.

4. Learned A.P.P. submits that statement of the prosecutrix prima facie establishes the offence against the applicant.

5. I have gone through the two statements of the victim dated 20.2.2017 and 21.2.2017, in which it is stated by the victim that the applicant has inserted his finger into her private part, due to which there was an injury. He further submits that on knocking the door the applicant immediately stood up and went towards the door and victim ran away from another door.

6. On perusal of the injury certificate of the victim, no external injuries were found on the person of victim particularly on private part of the victim. From the statement of victim recorded by the Judicial Magistrate, First Class on 20.2.2017 it appears that the victim stated before the Judicial Magistrate, First Class that at the relevant time the applicant has removed his clothes and slept on the person of victim. Then she tried to shout, that time the applicant shut her mouth. On knocking the door the victim ran away from the other side.

7. The two statements of the prosecutrix are different in reference to the incident. Nothing has been stated by the prosecutrix about insertion of finger by the applicant in her private part in statement before Judicial Magistrate, First Class to attract provisions of Section 376 of the Indian Penal Code. The applicant was arrested and is behind bars since five months. He was available for interrogation. The charge sheet is filed. Therefore, looking to the same, as well as some

contradictions between the statements of other witnesses including two statements of the victim, I am of the opinion that the applicant can be enlarged on bail by putting certain conditions.

8. Hence, the following order.

(i) Criminal Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime No. 65 of 2017, registered with Bhagyanagar police station, Nanded, on his furnishing P.R. bond of Rs. 50,000/- with one solvent surety in the like amount.

(iii) Applicant shall not tamper with the evidence of prosecution in any manner.

(iv) Applicant shall not contact any witnesses in the afore said crime.

(v) The applicant shall not enter the limits of City Nanded, except for attending the court proceedings in reference to the present crime, till conclusion of the trial.

9. Criminal Application is disposed of.

(K.L.WADANE, J.)

dbm