

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

**CRIMINAL APPLICATION NO. 2740 OF 2017**

- 1     Dattatraya Babasaheb Pawar,                    **... Applicants**  
      Age 29 years, Occu: Service,
- 2     Dhananjay @ Kundalik Vitthal  
      Pawar, Age 29 years, Occu:  
      Service
- 3     Vitthal Waman Bhujbal,  
      Age 25 years, Occu: Agri.  
      All R/o of Ajnuj Shivar, Tq.  
      Shrigonda, Dist. Ahmednagar.

**VERSUS**

The State of Maharashtra,                    **... Respondent**  
Through the Police Inspector,  
Shrigonda Police Station,  
District Ahmednagar.

Mr. Rahul R. Karpe, Advocate for the applicants  
Mr. S. J. Salgare, APP for the State.

**CORAM : K. L. WADANE, J.**

**DATE : 20th June, 2017**

**ORDER:**

1.     Heard Mr. Karpe, learned counsel for the  
applicants and Mr. Salgare, learned APP for the  
State.

2.     Mr. Karpe, the learned counsel seeks leave to  
amend and correct name of father of applicant No.1

as Babasaheb instead of Balasaheb. Leave granted.  
Amendment to be carried out forthwith.

3. This application is filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No. I-296/2017, registered with Shrigonda Police Station, Taluka Shrigonda District Ahmednagar, for the offences punishable under Sections 376 (d) 506 r/w section 34 of the Indian Penal Code.

4. The informant i.e. prosecutrix lodged a complaint to Shrigonda Police Station on 12.05.2017 alleging that before one and half years, when she was going to school to bring her daughter, one person met with her and by giving threat, committed rape on her in the sugarcane field and went away. Subsequently, as usual, when she was going to School to bring her daughter, four persons also taken her to the field of sugarcane and committed rape on her. Such incident was going on repeatedly and in all seven persons have committed sexual intercourse with her. On the last occasion, her husband and brother-in-law noticed the incident at her instance and the

present complaint is lodged against the applicants.

5. Looking to the facts and circumstance of the case, it reveals that the prosecutrix had sexual relations with various persons and according to the prosecution, such acts of those persons were against her will and by using force. In normal course, it is not expected that a married woman would not resist, if the act was without her consent. Furthermore, there is inordinate unexplained delay in lodging the complaint. The complaint came to be lodged when her husband and brother-in-law noticed the sexual relations of the prosecutrix with other persons. Therefore, looking to the nature of allegations and the fact that there is inordinate delay in lodging FIR, there is no circumstance appearing from the record that the prosecutrix has resisted while the accused persons were committing rape.

6. In the circumstance, I am of the opinion that the applicants can be released on bail. Hence following order:

**O R D E R**

- i. The applicants shall be released on bail on their furnishing personal bond of Rs.10,000/- (Rupees ten thousand) each with one solvent surety of like amount.
- ii. Criminal application is disposed of.

**(K. L. WADANE, J.)**

JPC