

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

CRIMINAL APPLICATION NO.2903 OF 2017

Kalpesh s/o Mansukhlal Khilosia ... **Applicant**
Age 33 years, Occu: Business,
R/o Village Bharadi, Tq. Sillod,
District Aurangabad

VERSUS

The State of Maharashtra, ... **Respondent**
Through Sillod city Police
Station, Tq. Sillod Dist.
Aurangabad.

Ms. Monika Dahat h/for Mr. Swapnil S. Patil, Advocate
for the applicant

Mr. S. B. Joshi, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 6th July, 2017

ORDER:

1. Heard Ms. Dahat, 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 bail in connection with
Crime No.94/2017, registered with Sillod Police
Station, District Aurangabad for the offences
punishable under Sections 376(2)(n), 506 of the Indian
Penal Code and section 3(1), 12 of the SC & ST
(Prevention of Atrocities) Act.

3. The prosecutix, aged about 35 years, lodged a

complaint to the police station on 17/05/2017 alleging that she is residing in rented premises and serving as Anganwadi Assistant. After Diwali of 2016, one unknown person having mobile number 9423706565 called her on her mobile number 8698416358 and requested her to meet him. He said that he is doing business of plotting and is attached to the Registry office. On 26/01/2016, the present applicant met the prosecutix and taken her along-with her daughter to Raviraj Hotel near Dongargaon Phata and then left the informant at Ambedkar Chowk, Sillod. On 26/01/2017, the present applicant has again taken the prosecutix to Raviraj Hotel at Dongargaon-Fata and in the Hotel, the applicant committed rape on her by saying that he will provide employment to her. It is further alleged that under the same assurance, the applicant has committed rape on her for number of times.

4. Ms. Dahat, the learned counsel for the applicant submits that from the contents of the first information report, it appears that the prosecutix may be consenting party because, admittedly she is a major and married lady and probably after noticing physical relations of the informant with the applicant by her husband, she might have filed this complaint.

5. I have gone through papers of investigation and the statement of one Kishor Dhakne, owner of Hotel Kasturi Plaza, from which it appears that even on 28/02/2017 the applicant had been to the lodge alongwith one lady, he booked one room and left the lodge on next day.

6. Looking to the circumstances of the case, prima facie, it appears that the informant was a consenting party to the physical relation. The conduct of the informant appears to be suspicious therefore her husband drove her away from his house and this can be gathered from the contents of the FIR itself, wherein the incident of 21/02/2017 is quoted. According to the prosecutrix when the applicant came to her house at about 1.00 a.m., at that time, she made hue and cry and the applicant ran away. Thereafter, the husband of the present informant drove her away. This circumstance is indicative, that the applicant might have found in the company of the informant and therefore she might have driven away from the house of her husband.

7. Looking to the facts and circumstances of the case, I am of the opinion that the applicant is entitled for bail. Hence following order:

O R D E R

- i. The applicant shall be released on bail in connection with Crime No.94/2017, registered with Sillod Police Station, District Aurangabad on his furnishing personal bond of Rs.10,000/-(Rupees ten five thousand) with one solvent surety of like amount.
 - ii. The applicant shall not tamper with prosecution evidence in any manner.
8. Criminal application is disposed of.

(K. L. WADANE, J.)

JPC