

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 74 OF 2017

Amol Shivling Gaikwad	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Amin Solkar, Advocate for the applicant.
Mr. S.H. Yadav, APP for the respondent/State.
Mr. S.J. Thorat, P.S.I., Karmala Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **12th January, 2017.**

P.C.:

This Application is moved by the applicants/accused under section 439 of Criminal Procedure Code. The applicant/accused is facing charges under sections 376, 363, 452 and 506 of Indian Penal Code in C.R. No. 513 of 2016 registered with Karmala Police Station. The offence is registered on 23rd October, 2016.

2. The prosecutrix is a married woman of 20 years and having one daughter. The applicant/accused was running a garage near her house. It is the case of the prosecution that 9 months prior to the date of the complaint, the applicant/accused had raped her in her house and he threatened not to disclose this incident to her husband or any other person otherwise he would kill her husband. Therefore, out of fear she did not disclosed this fact to anybody. After few days she quarreled with her

husband and left him and started staying in her maiden home. On 24th June, 2016 the applicant/accused approached her and told her that he would drop her to husband's house. So, she agreed to go with him. The applicant took her by bus to Kurdwadi. When she questioned him about the same, he threatened her that he would kill her and her daughter and thereafter he took her to Pandharpur to the house of one Mina and stayed there for 8 days. At that time, he raped her from time to time. Then he took her to one village Bibi in Taluka Phaltan, District Solapur and stayed there for 10 days. He again sexually abused her and then left her at Bibi village and went away without telling her. She came to her mother's house and narrated the incident of rape and also informed this to her husband. She approached the police and gave information about the offence of rape committed by the applicant/accused. The applicant/accused was arrested on 23rd October, 2016 and since then he is in prison. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. It was a consensual sexual relationship and the applicant/accused is falsely implicated in the offence. The learned counsel for the applicant/accused on query submitted that the applicant/accused shall cooperate the police in the investigation especially in respect of giving blood samples for DNA test.

4. Learned APP opposed the Application and submitted that the complainant has delivered a baby boy two days back and the paternity of the child is an issue. He further submitted that investigation is going on. The charge sheet is not yet filed.

5. Perused the FIR. Considering the facts of the case and as the applicant/accused is inside the prison since 23rd October, 2016, I allow this Bail Application on the following terms and conditions

ORDER

- (i) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not pressurize the witnesses or harass the complainant.
- (iii) The applicant shall attend the concerned police station on every Tuesday between 4 to 5 p.m. till the filing of the charge sheet.
- (iv) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
- (v) In the event of breach of any of the above conditions, the

prosecution will be at liberty to move the Court for cancellation of bail.

6. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)