

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 265 OF 2017**

Shravankumar @ Rahul Dhanaram Sharma	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Solkar Mohammed Amin Haroon for the Applicant

Mr. Deepak Thakare, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 7th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 120 of 2015 registered with the Alibag Police Station, for the alleged offences punishable under Sections 376, 324, 323, 506 and 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in the said case. He submitted that a false case

has been lodged against the applicant, as the prosecutrix's boyfriend was unhappy with the fact, that she had gone with the applicant and others to Alibag. He submitted that the prosecutrix had cut her wrist, after her boyfriend had come to know that she had gone to Alibag. He submitted that soon after the incident of sexual assault, the prosecutrix had not disclosed the incident either to Sumeet and his wife Richa (her land lady's son and daughter-in-law) or to the landlady on returning back from Alibag. He submits that the applicant is in custody since 26th September, 2016 and that investigation is complete and charge-sheet is filed.

4. Learned A.P.P opposed the bail application. He submits that there is ample evidence to show the complicity of the applicant.

5. Perused the papers. It appears from the statement of the prosecutrix who was about 19 years at the relevant time that she was studying in a Fashion Designing Institute and was staying in a rented premises. She has stated that on 29th August, 2015, the land lady's son Sumeet and his wife Richa made a plan to go to Alibag. The prosecutrix agreed to go with them. She has stated that just then, Sumeet's friend i.e.

the applicant-Shravankumar @ Rahul Sharma, aged 32 years, came in a Scorpio car and that all of them reached Alibag at about 11:30 p.m. on 27th August, 2015. She has stated that they looked for lodging and finally found a place, where they booked two rooms. She has stated that in one room, she and co-accused Richa slept and in the other room co-accused Sumeet and the applicant slept that night. She has further stated that on 28th August, 2015, at about 11:00 a.m., all of them went to Kashid beach. She has stated that thereafter, the applicant, co-accused Sumeet and his wife Richa consumed beer and they all had something to eat. She has stated that in the night when they reached the lodge, they all went to the beach near the lodge and were chatting. She has further stated that after some time, they returned to the lodge and that the applicant and other co-accused went for dinner, however, as she was tired, she did not accompany them and went to her room and slept. This was around 3:00 a.m. on 29th August, 2015. She has stated that as Richa was to come and sleep next to her, she had not locked the door. She has stated that while she was sleeping, the present applicant came near her and tried to force himself on her. She has stated that she tried to push him, however, he put his hand on her mouth and thereafter removed her clothes. She has stated that she was extremely

scared and that the applicant sexually assaulted her thereafter. She has stated that when she tried to escape, the applicant slapped her on her face and threatened her with dire consequences. She has stated that she was in tremendous pain, however, after some time, she got up and went to the next door room and woke up co-accused Richa and disclosed that she wanted to go back home immediately. The prosecutrix has further stated that she did not disclose the incident of rape to the co-accused in the car, as she was extremely afraid. She has stated that thereafter, she reached home at around 10:30 a.m. She has further stated that she wanted to disclose the said incident to her landlady, however, she was performing her pooja. She has further stated that she called her friend Rahul and asked him to come home immediately. According to the prosecutrix, after the pooja, the landlady left home and thereafter Rahul, her friend came home. She has stated that after seeing her friend, she started weeping and disclosed the entire incident to him. She has stated that she broke the glass pane and with a glass piece, cut her hand. Pursuant thereto, her friend took her to the M.G.M. Hospital, Kamothe. She has stated that her friend disclosed the entire incident to her brother and her brother disclosed the said incident to her parents about the sexual assault by the applicant.

6. The medical report of the applicant dated 26th September, 2016 shows that the applicant has given history of being under the influence of alcohol at the time of sexual assault. The medical report of the prosecutrix dated 30th October, 2016 shows, that she has given the following history to the doctor:

“When she had gone for an outing with the owners of her paying-guest accommodation and their friend Shravankumar @ Rahul Sharma and stayed at Alibag, she was raped by Shravankumar @ Rahul Sharma around 3:00 to 4:00 a.m. on 29th August, 2015.”

The injuries sustained by the prosecutrix are; bite marks on right chest, lacerated wound on left elbow, multiple linear abrasions on left wrist and injury superficial on inner side of upper lip. Hymen was torn and injury was noticed on the hymen. The age of injuries was stated to be fresh.

7. The prosecutrix was only about 19 years of age at the relevant time and the applicant 32 years. The complaint has been promptly lodged. There was no reason for the prosecutrix to falsely implicate the applicant, more particularly, when she had met him for the first time on that day. The

facts reveal that the applicant had clearly abused his position and had sexually assaulted a young college going girl. The prosecutrix was so traumatised, that she attempted to take her life, as she was violated. The possibility of the applicant tampering with the evidence also cannot be ruled out.

8. Considering the serious and grave allegations, this is not a fit case to enlarge the applicant on bail. The application is rejected. However, the trial of the applicant is expedited.

9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.