

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 788 OF 2016

Mr. Shailendra Ramchandra Dubey ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Ms. Nidhi S. Sharma, Advocate for the applicant.

Mr. Arfan Sait, APP, for the State.

Mr. G.B. Mali, API, Waliv Police Station, Dist. Palghar.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 30th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 23.9.2015 in Crime No.406 of 2015 registered with Valvi Police Station for the offences punishable under Sections 302, 376(d), 201, 366, 323, 504 and 506 of the Indian Penal Code.

2. It is the case of the prosecution that on 22.9.2015, Rambhajan Rampayare Nisad lodged a report at the police station alleging therein that one Shankar Salunke resides in the close proximity of his house. They were acquainted with each other. On 20.9.2015, he and his wife were selling vegetables till 11 p.m. They returned home at about midnight and within half an hour, the applicant herein along with Shankar Salunke, Anand Chavan, Shailendra Dube and Sangam Mourya had been to his

house and had informed him that his wife was referring to them in lewd language and abusing them. All the four persons had attempted to drag his wife outside the house. The complainant was trying to restrain them from doing the said act. At that time, they had assaulted the complainant with fist and kick blows. That according to the complainant, his wife was ravished by four of them and thereafter she was taken away from the house. That he had fallen unconscious after witnessing the said incident and after sustaining traumatic blows at the hands of the accused persons. He searched for his wife till 22.9.2015 and thereafter he has informed the police. The dead body of his wife was found in a drainage behind the petrol pump at Fatherwadi. On the basis of the report, Crime No.406 of 2015 is registered against the present applicant and others.

3. The learned counsel for the applicant submits that there is a delay in lodging the FIR. The complainant had maintained silence for a long time and that there is no plausible explanation for inordinate delay in lodging the FIR. The learned counsel has vehemently criticized the conduct of the complainant in maintaining silence, although he had witnessed the act of the accused persons. The learned counsel has also drawn attention of this Court to the statement of one of the witnesses

Shambu Sharma who has specifically stated that on 21.9.2015, it was raining. Shambu Sharma had heard the sounds of the first informant and his wife quarreling with each other. he presumed that as usual, they must have been quarreling under the influence of alcohol. he has also stated that he had heard the voice of Shankar Salunke and his associates and he had presume that they were pacifying the quarrel between the couple. The witness has further stated that on 21.9.2015, at about 8 a.m., the complainant had informed him that his wife is not at home and that the present applicant along with Shankar Salunke and others have abducted her. He had also disclosed that he was unconscious. both of them were searching for the wife of the complainant. They had also been to the residence of Shankar Salunke, but she was not found there. on 22.9.2015, they had also learnt about the act of Shankar Salunke, the present applicant and others. The dead body was found on 22.9.2015.

4. Perused the papers of investigation. The post-mortem notes clearly indicate that the body was decomposed and a foul smell was emanating. That the skin was peeling off. The injuries on the dead body were ante-mortem. The cause of death is evidence of decomposition with contusions over the body. There was sufficient evidence of brutal rape on the

deceased. It is seen from the papers of investigation that the clothes of the present applicant were seized in the course of investigation. There is also material to indicate the involvement of the applicant in the said heinous offence.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated only because he happens to be the friend and neighbour of Shankar Salunke. It is a matter of record that the complainant happens to be an eye-witness and he has specifically named the present applicant as the person who had accompanied Shankar Salunke to his house and dragged his wife out of the house. It is the case of a direct evidence. In these circumstances, the applicant does not deserve to be enlarged on bail.

6. The application being sans merits, stands rejected.

7. The learned Sessions Judge shall not be influenced by the observations at the time of trial.

(SMT. SADHANA S.JADHAV, J.)