

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO.1117 OF 2017**

Jayu @ Zahir Sharif Khan & anr.

...Applicants

*Versus*

The State of Maharashtra

...Respondent

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Mr. Diwakar Singh for the applicants.

Mrs J. S. Lohokare, APP for the respondent – State.

ASI Vijay Mhetre, Amboli Police Station present.  
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**CORAM : PRAKASH D. NAIK, J.**

**DATE : 14 JULY, 2017**

**P.C. :**

. This is an application for bail. The applicants are arrested in connection with C.R. No.451 of 2016 registered with Amboli Police Station for the offence punishable under sections 376, 341, 323, 504, 506(2), 452 read with 34 of IPC.

2. The prosecution case is that the complainant and her companion has stayed in the premise of relation of the complainant. The accused pushed the door in the night about 10.15 pm entered into the said premises and all of them had committed sexual intercourse with the complainant. The companion of the complainant was pushed out of the premises. After the incident they

fled away from the said premises. The police party which were petrolling in the area apprehended the applicants / accused and another persons and they were brought to police station. The complainant went to the police station for lodging complaint. The accused including the applicants were brought to the police station when they were identified by the complainant. The applicants are arrested and since then they are in custody.

3. It is submitted by the learned counsel for the applicants that the false case has been registered against the applicants. There is no evidence connecting the applicants with the crime. He pointed the statement of husband of the complainant wherein it is stated that the complainant is having illicit relationship with one Surfaraj. The complainant was allegedly in the said room at the time of incident with Surfaraj. It is submitted that the complainant has stated that the person accompanying was her was her husband which is not true. It is therefore submitted that the complainant is stating lie and her version should not be believed. He also submitted that the area is thickly populated and it is difficult to believe that such incident has occurred. The complainant could have shouted at the time of the alleged incident. He further submitted that the medical evidence does

not support the version of the complainant as there are no fresh injuries on victim. He pointed the statements of the witnesses including the statement of Surfaraj and submitted that the case appears to be concocted by the complainant.

4. Learned APP submitted that there is no reason for the complainant to falsely implicate the applicants. They were intercepted by the police and were brought to the police station. Hence, they were identified by the complainant. It is further submitted that the footwear of applicant no.1 was recovered at the spot of the incident. It is submitted that the evidence collected by the police is sufficient to involve the applicants in the said crime.

5. Perused the documents on record. It is apparent that the applicants were apprehended near the premises by the police while they were running from the place of incident and were brought to the police station. The medical evidence shows that there were abrasion on the person of the victim. Assuming that the complainant is having illicit relationship with Surfaraj that will not falsify her complaint lodged against the applicants / accused. The incident was reported to the police immediately. Footwear of one of the applicant was found at the scene of offence. The applicants were identified at the police

station when they were brought by the police as they were apprehended while running from place of incident. The submissions advanced for protection can be agitated during trial.

6. Bail Application No.1117 of 2017 is rejected.

**[PRAKASH D. NAIK, J.]**