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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1703 OF 2017

Yaraf Rabiul Shaikh

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. S.A. Ingawale for applicant.

Mr. S.V. Gavand, APP for State.

CORAM: A.S. GADKARI, J.**DATE : 6th September 2017.****P.C.**

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.494 of 2016 dated 24.07.2016 registered with Hadapsar Police Station, Pune under Section 376 of the Indian Penal Code.

2] The first information report is lodged by Smt. Rekha Karan Kamble. It is stated in the said report that, the applicant was residing in the adjoining room and was working at construction site. That on 23.7.2016 at about 6.00 p.m., the applicant entered into her house and committed rape on her. The prosecutrix tried to raise hue and cry, however, nobody came to

her rescue, as the people in the vicinity had been to work. After her husband came home at about 8.00 p.m, she immediately informed him about the incident and thereafter the first information is lodged During the course of investigation, applicant came to be arrested on 24.7.2016. After completion of investigation, police have submitted chrgesheet.

3] It is well settled position of law as has been enumerated by the Hon'ble Supreme Court in the case of Aman Kumar And Anr vs State Of Haryana [AIR SC 1497], that the prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. That there is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands at a higher pedestal than an injured witness. That in the later case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. The same view is further expressed by the Suprme Court in the case of State of Himachal Pradesh Vs. Shree Kant Shekari [AIR (2004) SC 4404].

4] The record clearly indicates that, after examining the prosecutrix by the Medical Officer, certain injuries were found on her person, which supports her version of forcible intercourse. The record further contradicts the submission of the learned Counsel for the applicant

that the act committed by the applicant was a consensual act. In the present case, apart from the statement of the prosecutrix her version is duly corroborated by the medical evidence on record. This Court finds the statement of prosecutrix trustworthy and reliable.

5] In view thereof, this Court is of the view that the applicant does not deserve to be released on bail and the present application is accordingly rejected.

(A.S. GADKARI, J.)