

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

BAIL APPLICATION NO. 1823 OF 2017

Sameer Imdad Shete and Ors. **... Applicants**

V/s.

The State of Maharashtra **... Respondent**

Mr. U.R. Agandsurve for the Applicants.
Mr. A.A. Palkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.
DATE : 20th SEPTEMBER, 2017

P.C.:

. The Applicants herein are seeking bail u/s. 439 of Cr.P.C. in C.R. No. 261/2017 dated 04.05.2017 registered with Karmala Police Station, District Solapur under Sections 376(d), 120(b), 506 of the Indian Penal Code.

2 The First Information Report is lodged by the prosecutrix herself alleging that on 27.04.2017 at about 8.00 p.m. when she had been to answer the nature's call, initially Accused No.1 Dinesh committed rape on her and immediately, thereafter the other Applicants came at the spot and threatened the prosecutrix by saying that they have witnessed the earlier act and by threatening committed gang rape on her. During the course of investigation, the Applicants came to be arrested on 05.05.2017. After completion of investigation, the police have submitted chargesheet.

3 Learned Counsel for the Applicants submitted that, as the Applicants Nos. 2

and 3 witnessed Accused No.1 Dinesh and prosecutrix in compromising position, they have been roped in the present crime. He further submitted that, there is delay about 8 days in lodging First Information Report which creates suspicion about the bonafide of lodgment of said report. Learned Counsel for the Applicants submitted that medical evidence annexed to the chargesheet does not corroborated the version of the prosecutrix. He further submitted that investigation of the present crime is already completed and chargesheet is filed. Therefore, further detention of Applicants in jail is not necessary and they may be released on bail.

4 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. V/s. State Of Haryana*¹, 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 Supreme Court in the case of State of *Himachal Pradesh V/s. Shree Kant Shekari*²

1 AIR SC 1497

2 AIR (2004) SC 4404

5 In the present case, though there is delay of about 8 days in lodging the First Information Report, it appears that Accused No.1 Dinesh initially had threatened the prosecutrix with dire consequences and the other Applicants had also threatened her of defaming her in the village and that is the reason, prosecutrix did not lodge First Information Report immediately. Prima facie it appears that the medical certificate issued in favour of prosecutrix supports her version, as the Medical Officer found abrasions on her person. The Applicants alleged to have committed gang rape on a hapless lady. The offence alleged against the Applicants is heinous in nature and accordingly, Applicants does not reserve to be released on bail.

6 Application is accordingly rejected.

(A.S.GADKARI, J.)