

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

CRIMINAL BAIL APPLICATION NO.2099 OF 2016

Amitkumar Shriram Ashish Shah

..Applicant

Vs

The State of Maharashtra

.. Respondent

Mr. Shine Kamaluddin Mohammad for the Applicant.

Mr. Arfan Sait, APP for State.

Mr. R. J. Shete – PSI, Ambernath Police Station.

CORAM : A. S. GADKARI, J.

Date : 10 APRIL 2017.

P.C. :

1. This is an application under section 439 of Cr.P.C. for bail in C.R. No. I-138/2014 dated 3rd May 2014, registered with Ambernath Police Station under section 376, 452 and 506 of the Indian Penal Code.

2. The first information report is lodged by the victim Smt. Brindvasini Gupta. It is the prosecution's case that on 30th April 2014, the complainant along with daughter Ms. Roshni were inside their house. Her husband had been to Mumbai for attending some function. At about 10.00 pm., the applicant who was in acquaintance with the husband of the informant knocked the shutter of the house of the complainant upon which, she opened it and informed the applicant that her husband is not at home and he may go. When the

complainant was in the process of pulling down the shutter of her house the applicant forcibly opened it, entered in the house of the complainant and initially tried to outrage the modesty of the complainant. At that time, the daughter of the complainant who was present there, got scared and left the said place. The applicant thereafter, committed rape upon the complainant and left the premises by threatening the complainant that he will defame her if she informs the said fact to anybody else. After the husband of the complainant returned home, she informed the said fact to him and thereafter the present crime is registered.

3. The learned counsel appearing for the applicant submitted that there is a delay in three days in lodging the first information report. He submitted that when the applicant firstly confided the said fact with her husband did not disclose the name of the applicant, however, in the FIR the name of the applicant is mentioned. He further submitted that the applicant is arrested on 3rd May 2014 and since then he is in jail. The charges in the present case are framed on 3rd August 2016, however, the trial has not proceeded thereafter. He therefore, prayed that the applicant may be released on bail.

4. I have perused the charge sheet annexed to the application. The version narrated in the first information report by the informant is duly corroborated by the statement of her minor daughter, Ms. Roshni. The Medical Certificate issued in favour of the victim further corroborates the version narrated by her. There is no

reason for the informant to falsely implicate the applicant in the present crime. After taking into consideration the fact that the applicant after committing criminal trespass in the house of the complainant, has committed rape on her, the serious allegations against the applicant and the gravity of the offence, this Court is of the opinion that the applicant does not deserve to be released on bail.

4. Application is accordingly rejected.

(A. S. GADKARI, J.)