

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2350 OF 2017

DEVANAND SURESH SHINGDE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Avinash Fatangare i/b. Vishakha Pandit, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent – State.

Mr.Jogdand, Assistant Police Inspector, present in the court.

CORAM : A. M. BADAR, J.

DATE : 3rd NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.56 of 2017 registered with Police Station Vangaon, District Palghar, for the offence punishable under Section 376 of the Indian Penal Code (IPC), by this application, is seeking his release on bail.

2 Heard the learned advocate appearing for the applicant / accused as well as the learned APP appearing for the State. The learned APP opposed the application by contending that the applicant / accused is a sitting member of Gram Panchayat and the conduct reflected from the First Information Report (FIR) is not justifiable in his case. The learned APP further argued that the FIR itself reveals that the applicant / accused had obtained the consent of the prosecutrix by misrepresenting her and indulging in sexual relation with her and therefore, the consent so obtained, is not a free consent.

3 I have carefully considered the rival submissions and also perused the case diary. The crime in question is registered on the basis of the report lodged by the victim of the crime in question. She is a married woman having two children from her husband. Her marriage was solemnized on 9th December 2005. She averred that the present applicant / accused had developed intimacy with her by giving false information about her husband in the year 2015. Thereafter, the present applicant / accused

indulged in sexual relation with her. The FIR shows that the husband of the prosecutrix came to know about her illicit relations with the applicant / accused on 9th May 2017. She, then, informed her husband that the applicant / accused is going to marry her. The FIR reveals that as the applicant / accused had not married the prosecutrix, she has lodged report against him.

4 The prosecutrix is aged about 32 years having two children from the wedlock. Prima facie, it is seen that the case in hand is that of a consensual sex. The learned APP has stated that within eight to ten days the charge-sheet is likely to be filed. This indicates that the investigation of the crime in question is over.

5 In this view of the matter, further pre-trial detention of the present applicant / accused is not warranted, and therefore the order :

ORDER

i) The application is allowed.

- ii) The applicant / accused in Crime No.56 of 2017 registered with Police Station Vangaon, District Palghar, for the offence punishable under Section 376 of the IPC is ordered to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant / accused should not tamper prosecution witnesses.
- iv) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- v) The applicant / accused should not contact the prosecutrix or her relatives in any manner.
- vi) The application is disposed of.

(A. M. BADAR, J.)