

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2414 OF 2017

VISHAL JAIPAL BAGDI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Bharat Manghani, Advocate for the Applicant.

Ms.PPShinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 7th NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.172 of 2017 registered with Police Station Amboli, Mumbai, for offences punishable under Sections 376 and 506 of the Indian Penal Code (IPC), by this application, is seeking his release on bail after filing of the charge-sheet.

2 Heard the learned advocate for the applicant / accused as well as the learned APP. The learned APP opposed the

application by contending that the First Information Report (FIR) lodged by the prosecutrix immediately after the incident, points out the complicity of the applicant /accused in the offence of rape, and therefore, the applicant /accused is not entitled for bail.

3 I have considered the rival submissions and also perused the entire charge-sheet. The crime in question is registered on the basis of report lodged by the prosecutrix on the day of the incident itself. The prosecutrix is an adult female aged about 45 years and she was working as a maid servant in Venus Apartments. The applicant /accused is also serving as a sweeper in Venus Apartments. Allegations are to the effect that at about 2.20 p.m. of 23rd May 2017, the applicant /accused took the prosecutrix to 14th floor of “B” Wing of Venus Apartments, on the pretext of providing some work to her and then grabbed her, pressed her against the wall and committed forcible sexual intercourse with her. The prosecutrix stated that after the act, she immediately went downstairs by the lift and informed about the incident to watchman present there.

4 During the course of investigation, the Investigator has recorded statement of in all three watchmen who heard narration of the prosecutrix soon after the incident. These watchmen namely Ajitkumar Sonkar, Kamlesh Sonkar and Chhedilal Sonkar are reciting what they heard from the prosecutrix. They have stated that the prosecutrix reported that the applicant / accused had outraged her modesty.

5 The prosecutrix was medically examined on the very same day of the incident. Though she alleged forcible sexual intercourse by the applicant / accused by applying force and pressing her against the wall, the medical report does not show that the prosecutrix has sustained any injury.

6 The investigation of the crime in question is over. The very first narration of the prosecutrix was in respect of outraging her modesty by the applicant / accused. Nothing is pointed out to infer that the applicant / accused would not be available for trial and for receiving sentence, if any, imposed on him. Therefore the order :

ORDER

- i) The application is allowed.
- ii) The applicant / accused in Crime No.172 of 2017 registered with Police Station Amboli, Mumbai, for offences punishable under Sections 376 and 506 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 with prosecution evidence.
- 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 in any manner.
- vi) The application is disposed of.

(A. M. BADAR, J.)