

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.11 OF 2017

Akshay Kawadu Janbandhu and anr

..VS..

The State of Maharashtra, through P.S.O. Chimur, District Chandrapur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri Y.B. Mandpe, counsel for the applicants.
Shri S.S. Doifode, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 20, 2017.

Applicants involved in Crime No.70 of 2016, registered for the offences punishable under Sections 376(2)(I), 354(a), and 34 of the Indian Penal Code read with Sections Protection of Children from Sexual Offences Act, 2012, have filed this application for bail.

Heard learned counsel for the applicants and learned Additional Public Prosecutor for the non-applicant/State.

It is submitted that applicants are falsely involved in a report lodged belatedly after the incident dated 22.2.2016. It is contended that charge-sheet is filed and since applicants are in custody since about one year, they be released on bail by imposing suitable conditions.

The prosecution has opposed the

application as per its reply contending that there is direct evidence against applicants establishing their involvement.

Perusal of report reveals that prosecutrix along with her friend Sanjivani on 21.2.2016 on the say of Rakesh, friend of Sanjivani, proceeded to village Pendhari to see fair. It is alleged that Rakesh, prosecutrix, and Sanjivani then proceeded on motorcycle towards Pendhari when Rakesh by stopping the vehicle in between the road took Sanjivani in the adjoining field and indulged into physical relation with her. Admittedly, no report is lodged of the said incident by Sanjivani.

It is further alleged in the report that, thereafter, at about 1:00 in the midnight, Rakesh made a phone call to applicants who arrived along with co-accused Pranit Raut and there applicant Akshay took prosecutrix in one of the fields and is alleged to have sexually assaulted her against her will. It is further stated that, thereafter, she along with applicant No.1 Akshay, applicant No.2 Yogichand, and co-accused Pranit by occupying one motorcycle proceeded and at p.m. 2:00 p.m. in the night they left prosecutrix on road. It is further stated that prosecutrix then met Sanjivani and Rakesh in the morning at 5:00 a.m. and from there returned back to their village Kiwanda. From the report it is revealed that it came to be lodged as informed by

the Members of the Tantamukti Samiti.

Considering the facts mentioned in the report it is thus found that the same is lodged after seven days of the incident on the say of Members of Tantamukti Samiti. Similarly, conduct of the prosecutrix in this crime is also material to be considered as she preferred to stay out through out the night with her friends and boyfriends and in her presence her friend Sanjivani accompanies her boyfriend to the adjoining field where they indulged in physical relation.

Similarly, contents of the report of applicant Akshay taking prosecutrix to the adjoining field in the night after 1:00 a.m. also speaks its volume of her character when she claims that said applicant by taking her in the adjoining field indulged into sexual intercourse with her against her wish. Admittedly, there are no allegations against applicant No.2 Yogichand of his committing offence of rape but his presence is only attributed with co-accused Akshay.

Considering contents of report as aforesaid, though from the medical report prosecutrix is stated to be sexually assaulted, no injuries are found on her person and hymen is stated to be old torn.

In that view of the matter and since investigation is complete and charge-sheet is filed, there is no purpose in keeping applicants behind bars,

pending Trial. Hence, the following order:

Applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.20,000/- each with one surety each in the like amount.

Applicants shall mark attendance with Chimur Police Station, District Chandrapur once in three months on the first day of each such month, pending Trial.

Applicant shall not enter within the territorial limits of village Pendhari and Kiwanda, District Chandrapur, pending Trial and shall submit proof of their residence with the investigating officer and shall update the same in the event of change in future.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 22/2/2017