

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No. 998 of 2017
[Santosh Ganpatraoji Bawankar Vs. State of Mah, Sonagaon PS, Nagpur]

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

Court's or Judge's orders

Mr. S. S. Jaiswal, Adv., for the Applicant.
 Ms. Geeta Tiwari, APP for non-applicant.
 Mr. Charlewar, Adv., to assist the prosecution.

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CORAM : A.S. CHANDURKAR, J.

DATE : 14th November, 2017

The applicant who has been arrested on 24th September, 2017 in connection with Crime No. 294/17 registered at Sonagaon Police Station, Nagpur, for the offences punishable under Sections 376 and 506 read with Section 34 of Indian Penal Code read with Section 3 (ii) (v) and 3 W (1) (ii) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act seeks his release on bail.

As per the report dated 24th September, 2017, the informant has stated that since December, 2016, she was acquainted with the wife of the present applicant. According to her, the applicant was running a bar at Dhapewada where the informant was invited to

sing songs. On 2nd May, 2017, it is stated that the informant was called by the wife of the applicant for purposes of shopping. While returning back, it is stated that she was offered a cold drink, due to which she got sedated. She was taken at a flat and the applicant is alleged to have had sexual intercourse with her. Thereafter, on 2-3 occasions, the applicant had threatened the informant that this fact should not be disclosed and a threat was given that the video in question indicating aforesaid act would be uploaded. Ultimately, on 24th September, 2017, a report came to be lodged. The applicant was arrested on the same day.

It is submitted on behalf of the applicant that there is a considerable delay in lodging the report. Though the alleged act of having sexual intercourse is dated 2nd May, 2017, the report in question has been lodged after about four-and-half months. The material collected during investigation does not connect the present applicant with the alleged offence and the allegations are merely by way of an afterthought. It is further submitted that the informant and her husband are themselves indulging in illegal activities and it is the apprehension of the informant that on the basis of information given by the present applicant that those activities were revealed. Hence, the present report was lodged.

The application is opposed by the learned Addl.

Public Prosecutor by relying upon the reply. The informant has also assisted the prosecution. It is submitted that the incriminating material has been sent to the Forensic Laboratory and the reports in that regard are awaited. The Call Detail Records have also been obtained. Considering the seriousness of the offence and as the applicant has some antecedents, he does not deserve to be released on bail.

Perused the First Information Report as well as the police papers.

The incident in question is alleged to have taken place on 2nd May, 2017 and despite the allegation that on two of the occasions thereafter threats were given by the applicant, the report has been lodged on 24th September, 2017. The statements recorded by the prosecution of the shop owners at the place where the applicant and the informant had gone for shopping and had food are vague in nature and do not name the applicant. Considering the fact that the material collected till date is not of such nature that would warrant further continuation of the applicant behind bars, I am inclined to enlarge him on bail. In so far as the antecedents are concerned, the same pertain to the year 2015 and are under the Maharashtra Prohibition Act.

Hence, the applicant who has been arrested

pursuant to Crime No. 294/17 registered at Sonegaon Police Station, Nagpur, for the offences punishable under Sections 376 and 506 read with Section 34 of Indian Penal Code read with Section 3 (ii) (v) and 3 (1) W (i) (ii) of the Scheduled Castes & Scheduled Tribe (Prevention of Atrocities) Act is directed to be released on bail on furnishing a Personal Bond of Rs.30,000-00 [rupees thirty thousand only] with one surety in the like amount. The applicant after his release on bail shall co-operate with the prosecution and shall not take any steps to influence the prosecution witnesses.

The observations made in this order are only for deciding the present application which is allowed and disposed of.

Hamdast is granted.

Judge

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