

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No. 1043 of 2017
[Pravin @ John Dattuji Wadhai & another Vs. State of Mah.,
Maregaon PS, Distt. Yavatmal]

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

Court's or Judge's orders

Mr. M. I. Dhattrak, Adv., for the applicants.
 Mr. A. Madiwale, APP for non-applicant.

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CORAM : A. S. CHANDURKAR, J.

DATE : 21st November, 2017

The applicants who have been arrested on 18th October, 2016 in connection with Crime No. 267/2016 registered at Maregaon Police Station, Distt. Yavatmal, for the offences punishable under Section 376 (D) 341 and 363 of Indian Penal Code and Sections 3 (10) (w) (ii) and 3 (2) (5) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 seek their release on bail.

As per the First Information Report dated 17th October, 2016, when the prosecutrix intended to proceed towards her village in an auto rickshaw, the present applicants along with four others followed her on two wheelers and by taking her to a secluded place forcibly had sexual intercourse with her.

It is submitted on behalf of the applicants that the offence in question was registered against unknown persons. As per the prosecutrix, the six persons are stated to have followed the auto rickshaw by covering their faces. The incident in question took place after 7.00 p.m., and hence the subsequent identification by the prosecutrix cannot be believed. It is then submitted that other co-accused who were part of the group of six accused who had followed the prosecutrix have been released on bail. As the applicants are similarly situated, they are entitled for parity.

The application is opposed by the learned Addl. Public Prosecutor by relying upon the reply. It is submitted that the prosecutrix identified the present applicants and hence considering their involvement in the crime, they do not deserve to be granted any liberty. If released, there is likelihood of applicants tampering with the evidence.

Perused the report as well as the reply. Also perused the orders passed in Criminal Application [BA] Nos. 433 and 838 both of 2017. The applicants therein were part of the six persons who are alleged to have followed the prosecutrix. They were also identified by her in the test identification parade. Considering similarity of allegations against all the six accused, I find the applicants entitled for parity.

In view of aforesaid, I am inclined to order release of the applicants on bail. Hence the following order:-

The applicants, who have been arrested in connection with Crime No. 267/2016 registered at Maregaon Police Station, Distt. Yavatmal, for the offences punishable under Section 376 (D) 341 and 363 of Indian Penal Code and Sections 3 (10) (w) (ii) and 3 (2) (5) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, are directed to be released on bail on executing a Personal Bond of Rs.25,000/- [rupees twenty-five thousand only] each and two solvent sureties each in the like amount.

Till the conclusion of trial, the applicants shall not enter village Kumbha, Tq. Maregaon, Distt. Yavatmal, unless granted permission by the Special Court.

The applicants shall give details of the addresses where they would be residing till the conclusion of trial.

The applicants shall also furnish their cellphone numbers and cellphone numbers of the persons who will stand sureties for them.

The applicants shall be released on bail only after the above formalities are completed.

The applicants shall attend the trial regularly on every date unless granted exemption by the Special Court.

The application is allowed in the above terms.

Judge

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