

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 305 OF 2018

**RAKESH GAUNDER, PRESENTLY AT
CENTRAL JAIL COLVALE, THR. SUBHASH
PARSHURAM GAVANDAR.,**

... Applicant

Versus

**STATE OF GOA, THR. THE POLICE
INSPECTOR, PONDA POLICE STATION,
PONDA AND ANR.,**

... Respondents

**Shri Savio Noronha with Shri Ravi Gawas and Ms. Anisha
Simoos, Advocates for the Applicant.**

Shri S.R. Rivankar, Public Prosecutor for the Respondents.

Coram:- C. V. BHADANG, J.

Date:- 19th October 2018

P.C.

This is an application for bail. The applicant is facing prosecution for the offence punishable under Sections 341 and 376 of the Indian Penal Code, before the learned Additional Sessions Judge at Panaji.

2. The prosecution case is that on 02.02.2017 at about 9:00 a.m., when the prosecutrix, who was then aged about 21 years, was proceeding to bring rice from the Government Society, the accused came from behind on his scooter and offered her to give a lift. The applicant-accused told the prosecutrix that since he is also going to the same place, he will drop her there. On such an

offer being made, the prosecutrix went alongwith the applicant-accused and instead of taking the prosecutrix to the Society, she was taken to the jungle behind Dada Vaidya School and she was raped.

3. According to the prosecution, the prosecutrix got pregnant on account of the forcible sexual intercourse, by the applicant and has given birth to a child.

4. The applicant had earlier approached this Court for bail in Criminal Application (Bail) No. 320/2017, which was rejected by this Court on 10.01.2018 on two grounds. Firstly, that the DNA report of the child (which was sent to Hyderabad for matching) was not received and secondly, the prosecutrix was yet to be examined by the learned Sessions Judge and there was a reasonable apprehension that the applicant-accused would threaten the prosecutrix, in case if he is released on bail.

5. It is submitted by the learned Counsel for the applicant that since after the rejection of the earlier application, the DNA report is received and the applicant is not shown to be the biological father of the child. It is submitted that the prosecutrix is also examined before the Sessions Judge and the apprehension that the applicant would tamper with the prosecution evidence and would try to influence the prosecutrix, does not survive.

6. The learned Public Prosecutor submitted that the applicant hails from Karnataka and may not be available for trial.

7. It is submitted by the learned Counsel for the applicant that the applicant has shifted to Goa and is a permanent resident of Goa and is willing to give a local surety.

8. Considering the overall circumstances and prima facie having regard to the fact that the DNA report is in the negative and the prosecutrix has already been examined in the matter, the following order is passed:

O R D E R

- (a) The criminal application is allowed.
- (b) The applicant shall be released on bail on execution of a P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the sum of Rs.25,000/- each, out of which, atleast one shall be a local surety.
- (c) The applicant shall furnish his local as well as his native address before the learned Sessions Judge alongwith proof.
- (d) The applicant shall not leave the State of Goa, without the permission of the learned Sessions Judge, during the course of the trial.
- (e) The applicant shall not influence or tamper with the prosecution evidence/witnesses.
- (f) Bail bonds to be furnished before the learned Sessions Judge.

(g) All concerned to act on the basis of an authenticated copy of the order.

C. V. BHADANG, J.

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