

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1878 OF 2018

Rahul Dadaso Chavan	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Yogesh Bhujbal for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 20th AUGUST, 2018.

P.C.:-

This is an application for bail filed by the Applicant, who is facing trial in Special Case No.8 of 2018 pending on the file of the learned Additional Sessions Judge, Karad, District-Satara, arising out of C.R. No.269 of 2017 registered with Patan Police Station for the offences punishable under Sections 376, 354(1), 323, 504 and 506 of the IPC and Sections 3, 4 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Mr. Ganesh Bhujbal, the learned counsel for the Applicant and Mr.S.R. Agarkar, the learned APP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The allegations against the Applicant in brief are that on 12th November, 2017 at 12.p.m. the Applicant took the prosecutrix to his house and committed rape on her, who at the relevant time was below 18 years of age. The statement of the prosecutrix prima facie states that on 12th November, 2017 at about 12.00 p.m. the Applicant came to her house and called her to his residence and when she refused, he forcibly pulled her to his house. He took her in the bedroom and committed rape on her. She further claims that the Applicant had threatened to malign her reputation and hence, she had not disclosed the incident to anyone. The prosecutrix had further stated that on 20th November, 2017 the Applicant had assaulted her and that she had informed the incident to her parents. She further states that on 22nd November, 2017 her father lodged the complaint against the Applicant for assaulting her and for abusing her. She claims that on 24th November, 2017 the Applicant once again questioned her as to why he lodged a police complaint against him and thereby caused her threat of death. She thereafter informed her parents about the incident of 12th November, 2017. They had initially decided not to report the matter to the police taking into consideration the fear that the incident would tarnish her future. However, since the

Applicant was harassing them constantly, she decided to lodge the FIR and accordingly, she lodged the report on 29th November, 2017 pursuant to which Crime No.269 of 2017 came to be recorded by Patan Police Station against the aforesaid Applicant for the aforestated offences.

4. It is to be noted that the FIR prima facie reveals that the alleged incident of rape was of 12th November, 2017. The statement of the father of the prosecutrix as well as NC dated 22nd November, 2017 prima facie reveals that on 22nd November, 2017 father of the prosecutrix had lodged a report against the Applicant for assaulting /abusing him and his wife. There is no mention of any incident of rape in the said complaint, even though the prosecutrix states that the Applicant had assaulted her on 22nd November, 2017 and that she had informed her parents about the said incident. The medical certificate at page 53 prima facie reveals that the prosecutrix was examined on 29th November, 2017. The said certificate prima facie indicates that the prosecutrix was not capable of having sexual intercourse and no fresh mark or injury is found on her private parts or body. The medical report therefore, does not prima facie supports the case of the prosecution. Considering the nature of the allegations and the nature

of material on record, so also considering that the charge sheet is already filed and the case is committed to the Sessions Court, presence of the Applicant is no longer required in the custody. Hence, the following order:-

- a) The application is allowed.
- b) The Applicant be released on bail on furnishing bail bonds of Rs.25,000/- with one or two solvent sureties to the like amount to the satisfaction of the learned Additional Sessions Judge, Karad, District-Satara.
- (c) The Applicant shall not interfere with the victim or the other witnesses in any manner.
- (d) The Applicant shall furnish his permanent as well as temporary address and the contact number and shall not change his residence without prior intimation to the concerned Court.

(SMT. ANUJA PRABHUDESSAI, J.)