

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

BAIL APPLICATION NO.575 OF 2018

Ashwin Sahebrao Sonune Applicant

Vs.

The State of Maharashtra Respondent

Mr. Aniket U. Nikam i/by Mr. Aashish Satpute for the Applicant.
Mr. N.B. Patil, APP for the State.

Mr. P.T. Jagdale, ASI, Shingnapur Police Station, Pune Gramin

***Coram : Smt. Sadhana S. Jadhav, J.
Date : 18th June, 2018***

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP.

2 This is an application under Section 439 Code of Criminal
Procedure. The applicant herein is arrested on 15th May 2017 initially
at Dighi police station by “0” number. Since the offence had occurred
in the jurisdiction of Shikrapur police station, the same was

transferred to Shikrapur police station for further investigation and was registered as Crime No. 210 of 2017.

3 It is the case of the prosecution that the prosecutrix is Ms. "X", who is original resident of Taluka Ahmedpur, District Latur had eloped from her house with one Ajay Dighole. That he had abandoned her. She had taken a train to Aurangabad, however, she was scared that she would be scolded by her parents and therefore on 7th April 2017, she had left for Pune and reached Pune at about 1.00 pm. She met Ajay Dighole at Pune, who had then refused to marry her. She knew one girl namely Sonali Sagar, who was acquainted with her family earlier. She had reached her house. It is alleged that when she was residing with Sonali Sagar, who is a married woman, her husband Amol Sagar had ravished her. Thereafter he had continued to sexually abuse her in the presence or absence of his wife. On 6th May, 2017, being fed up of the sexual abuses, she had fled from their house and had reached the police station and lodged the report.

4 It is pertinent to note that on the basis of the said report, Crime No.210 of 2017 was registered against Sonali Sagar and her husband Amol Sagar, who are in custody. On 14th May 2017, the supplementary statement of the survivor was recorded and she had alleged in the supplementary statement that while she had stayed with Sonali Sagar, one day the couple had arranged a party. They had invited some friends. Yogesh and two persons were invited for the party. After the party was over, they stayed in the said house and on that night one Ashwin had ravished her. The victim had not stated the full name of Ashwin, however, on the very next date, the present applicant was arrested.

5 Learned counsel for the applicant submits that in fact the victim had initially lodged a report that on 8th May 2017 the victim had reported to Dighi police station about the atrocities which were meted out to her at the hands of Ajay, Amol and Sonali, on the basis of which Crime No.80 of 2017 was registered at Dighi police station on

10th May, 2017. The applicants were not named in the said report. It is pertinent to note that in the report dated 30th May 2017 also the applicant has not been named and he has been arraigned as an accused by way of supplementary statement dated 14th May 2017. Learned counsel submits that the applicant happens to be a young boy of 20 years old. The full name of the accused Ashish was not given by the victim. There is no identification parade wherein the investigating agency has verified that the applicant has been the same person, who had attended the party at the house of Sonali. It is submitted that the applicant has been falsely arraigned. Learned APP submits that there is no reason for false implication as the applicant was unknown to the victim. As against this, the learned counsel for the applicant submits that this could have been a case of mistaken identity. Learned counsel has further drawn attention of this court to the history given by the survivor to the Medical Officer at the time of clinical examination wherein she had disclosed that while she was residing with her friend Sonali, during the period 7th April 2017 to 16th May 2017, she was ravished by her

husband Amol and that they had not given her money to return to her native place. There is no mention that during the period 7th April 2017 to 16th May 2017, she was ravished by any other person besides Amol. Be that as it may, taking into consideration the fact that no act was attributed to any person in the first or the second F.I.R. i.e. in Crime No. 80 of 2017. Taking into consideration all the above mentioned facts, it can be said that the applicant has made out the case for grant of bail.

6 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the order :

ORDER

- i) The application is allowed.
- ii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

(*Smt. Sadhana S. Jadhav, J*)