

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 636 OF 2018

Sachin Ramesh Utkar

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Ms. Saswati Deb for the Applicant.

Mr. Ameet Palkar, APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 25th JUNE, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 344 of 2016 dated 5th December, 2016, registered with Agripada Police Station, Mumbai under Sections 377, 376, 324, 323, 504 of the Indian Penal Code, now culminated into Session Case No. 171 of 2017.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 The first information report is lodged by the prosecutrix herself, who was aged about 35 years on the date of incident.

The prosecution case in brief is that, the prosecutrix is a

divorcee and is a mother of a son aged about 19 years. That, the Applicant is also a divorcee. The Applicant and prosecutrix were knowing each other since last many years, as they were residing in the same locality. That, since the year 2015 the prosecutrix started residing with the Applicant in '*live in relationship*' as husband and wife. That, on 4th December, 2016 the prosecutrix had been to her mother's house for demanding money for monthly expenses to which, her mother refused and therefore, the prosecutrix went to her aunts house for night stay. The prosecutrix was sleeping in a cabin near the house of her aunt. That, on 5th December 2016, at about 2.00 a.m., the Applicant came in search of the prosecutrix and after seeing her sleeping in the cabin, he got suspicious about her conduct and thereafter it is alleged that he assaulted her with fist, wooden rod and knife. It is alleged that, the Applicant assaulted the prosecutrix on her left hand palm and right knee with the knife. It is further alleged that, there after the Applicant committed forcible sexual intercourse with the prosecutrix.

During the course of investigation, the Applicant came to be arrested on 8th December, 2016 and after completion of the investigation, the police have submitted the charge-sheet.

4 The perusal of first information report would indicate that, the prosecutrix was staying with the Applicant in '*live and relationship*' for at least one year prior to the date of incident. When the Applicant saw that, the prosecutrix was sleeping in the cabin near the house of her aunt, he got suspicious about her conduct and it appears that being enraged of the same and due to grave and sudden provocation thereof, he assaulted the first informant.

5 The injuries mentioned in the medical certificate, prima facie are not corroborating the version of the first informant with respect to the assault with knife by the Applicant. The Medical Officer has opined that, all the injuries mentioned in the said report are caused by hard and blunt object, except injury No. 21. The Injury No.21 is a small superficial incised wound admeasuring 0.5 x 0.1 cm.

As noted earlier, the Applicant is in jail since 8th December 2016. The police have already completed the investigation and submitted the charge sheet.

6 In view of the above, the Applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 344 of 2016 dated 5th December, 2016, registered with Agripada Police Station, Mumbai, now culminated into Session Case No. 171 of 2017, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the Agripada Police Station, Mumbai, on every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- c) The Applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- e) The Applicant is directed not to enter into the jurisdiction of the Agripada Police Station,

except for marking his presency as directed herein and shall keep himself away from the said jurisdiction.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)