

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.557 OF 2018

Maruti Bapu Shinde

..Applicant/
original accused

vs.

The State of Maharashtra

...Respondent

Mr. Prosper D'Souza i/b Mr. Rajendra Anbhule for the Applicant .

Mr. S.R. Agarkar, APP for the Respondent.

Mr.P.Y. Waghmare, API, Karlama Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 26th MARCH, 2018

P.C.:

. This application is filed by accused involved in C.R. No.6/2018 registered with Karmala Police Station, District Solapur for the offence punishable under sections 376, 323, 504, 506 of the IPC.

2. Heard Mr.D'Souza, learned counsel for applicant and Mr. Agarkar, learned APP for the State. Perused the case diary. It is submitted on behalf of applicant that applicant is falsely involved by prosecutrix, who is applicant's sister-in-law. Their relations are strained prior to incident on account of boundary dispute of field. It is contended that the contents of report on the face of it are not convincing as it is alleged by prosecutrix that applicant committed sexual assault upon her and continued such act till her husband arrived at the spot in search of complainant and had submitted that distance between field where incident alleged to have taken place and the house of complainant is ½ km and thus it is not possible for applicant to sexually molest complainant for a period of ½ hour. Therefore it is contended that application be allowed.

3. Learned APP opposed the application by referring to the report as well as to the statement of eye witness and neighbour of victim on the count of confession of applicant.

4. Perusal of report reveals that on 3/1/2018 when complainant was returning from her field which is adjoining to the field of applicant at 5.30 p.m. she was taken by applicant within his field and she was subjected to sexual assault. According to complainant such fact is witnessed by her husband, who had come in the field in her search. Statement of victim's husband substantially corroborates contents of report while statement of victim's neighbour further establish involvement of applicant as according to her applicant has confessed act of commission of sexual assault on the victim.

5. Perusal of case diary though reveals that there is no definite opinion as to sexual intercourse, prosecutrix is found to have sustained contusions on her person, which prima facie corroborate the incident. It is material to note that incident had occurred on 3/1/2018 at 5.30 p.m. while report came to be lodged immediately on that day at 9.35 p.m. and that the distance of Karmala Police station is near about 20 Kms from the house of complainant. In that view of the matter, application is liable to be rejected as per order below:

ORDER

Application is dismissed.

(P.N. DESHMUKH, J)