

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

CRIMINAL BAIL APPLICATION NO. 2717 OF 2018

Mishrilal Kapileshwar Rai @ Gopal	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Shambhu M. Jha for the applicant.
Mr. M.G. Patil, APP for the Respondent-State.
Mr. R.T. Patil, PSI is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 20th DECEMBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 329 of 2017 registered with Shahu Nagar Police Station for the offence punishable under Section 376, 506 II read with 34 of Indian Penal Code.
2. The case of the prosecution is that the complainant is the lady aged about 23 years. She was in search of employment. She visited the garden of Municipal Corporation at Shahu Nagar Colony and made inquiry with watchman. Watchman informed to her to wait till the supervisor visits the garden. The complainant waited for the supervisor. Subsequently, supervisor came to the said place. The complainant spoke to him and told him that she

was in need of work. Supervisor told her she would get salary of Rs.7500/-. She joined the work from the next day. She was explained the nature of the work to be carried out. On 20th September, 2017, she had visited the garden and performed her work. Watchman of the garden was also supervising the work. One unknown person came there. The complainant made inquiries with the watchman regarding the said person. At about 1 O'Clock the complainant entered into the room for having lunch. Said unknown person entered into room and had forcible intercourse with her. Thereafter other person namely Gopal entered into the room and also sexually assaulted her. The complainant stopped going for work from the next day. She again visited the garden to inform contact Gopal and Ramesh. However, they were not found at the place. FIR was lodged.

3. Learned counsel for the applicant submits that co-accused Ramesh was also alleged to have committed sexual intercourse was granted bail by this Court vide order dated 17th July, 2018. It is submitted that applicant is entitled for bail on the ground of parity. While granting bail to the co-accused it is observed that alleged incident has taken place at the entrance of the garden and in the watchman's cabin with two windows therein. The

photographs produced by the applicant indicate that the said place is situated in a densely populated area. The date of incident of the alleged crime is 20th September, 2017 and the first Information Report was lodged on 25th November, 2017 belatedly without offering reasonable explanation for delay.

4. Learned APP submitted that specific role has been attributed to the applicant in the First Information Report. Applicant has allegedly sexually assaulted the complainant without her consent.

5. It is noted that other accused was also attributed with similar role of committing sexual intercourse with complainant. Said accused has been granted bail. In the circumstance, applicant is entitled for bail. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in CR No. 329 of 2017 registered with Shahu Nagar Police Station on his furnishing PR Bond of Rs.25,000/- with or more sureties in the like amount.
- iii. Applicant shall report the concerned police station once in a month on first Saturday of month between 11.00 a.m. to 1 p.m. till further order.

- iv. Applicant shall not tamper with the evidence.
- v. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)