

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.401/2018

(Naim Baba @ Sk. Naim s/o Sk.Hamid Vs. State of Mah. Through PSO., PS.Telhara, Akola)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.M.Daga, Advocate for applicant.
Ms. Ritu Kalia, APP for non-applicant/State.

CORAM : S. B. SHUKRE, J.

DATE : APRIL 27, 2018

Reply of the prosecution is taken on record.

Heard Shri Daga, learned counsel for the applicant and Ms. Kalia, learned APP for the State. Perused the reply of the prosecution and the case diary.

The incident is alleged to have been taken place in the night intervening 12.10.2017 and 13.10.2017. It is alleged that, in this incident, a forcible sexual intercourse was committed by this applicant with the complainant twice. It was an admitted fact that at the time of commission of alleged forcible sexual intercourse, the husband of the complainant was waiting outside in the room where this incident took place. It is also an admitted fact that the room had no door to it and while committing the alleged act, this applicant had only drawn curtain separating this applicant and the complainant on one side and the husband of the complainant on the other. It is not alleged that even

though, there was resistance initially put up by the complainant to this applicant, the husband of the complainant heard any noise of such alleged resistance. It is significant to note that the complainant is a woman of 19 years of age.

It is also seen from the material available on record that the complainant admits in her statement under section 164 of CrPC that, after the incident, her husband was called inside by this applicant and was given a lemon drink. The FIR has been filed not immediately in the morning of 13.10.2017 or even in the afternoon of that date. It has been filed on 14.10.2017. The investigation is over as charge sheet has been filed on 12.12.2017.

In these circumstances, I do not think that any purpose would be served by keeping this applicant behind bars any more.

In the result, the application is allowed. It is directed that the applicant be released on bail on his furnishing PR Bond of Rs.50,000/- together with one solvent surety in the like sum on the following conditions:

- (i) The applicant shall attend the Court on the dates fixed in the case and shall co-operate with the trial Court in expeditious disposal of the case.
- (ii) The applicant shall not tamper with the prosecution witnesses.

(iii) The applicant shall attend the concerned police station on every Sunday between 7 and 8 p.m. till conclusion of the trial.

The application stands disposed of.

JUDGE

Andurkar.

