

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

CRIMINAL APPLICATION (BA) NO.620 OF 2018

(Sayyed Bilal s/o Sayyed Mehboob Vs. State of Maharashtra thr. PSO PS Balapur, Tq.
Balapur, Dist. Akola)

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

Court's or Judge's orders.

Shri Anil Mardikar, Senior Counsel with Shri Rishabh Khemuka, Advocate for
Applicant.
Shri M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 23rd JULY, 2018.

The applicant is in judicial custody since 18.01.2018 in Crime 21/2018 registered with the Police Station Balapur, District Akola for offence punishable under sections 376 (D), 506 read with section 34 of the Indian Penal Code.

2] The prosecutrix lodged report on 17.01.2018, the gist of which report is that the applicant met her at Sindhi camp on 10.01.2018 and befriended her. The prosecutrix used to go to Sindhi camp to fetch fodder for her goat. It is stated in the report dated 17.01.2018 that the prosecutrix gave her mobile number to the applicant and frequent conversations thereafter ensued.

3] The accusation against the applicant is that on 14.01.2018 he and co-accused Sagar took the prosecutrix to

a hut in village Dadham on the pretext of providing grass – fodder and in the said hut the co-accused first subjected prosecutrix to sexual intercourse and then the present applicant followed. The prosecutrix was dropped by the applicant and Sagar near the Patur bridge and she came home by an auto-rickshaw. Although the incident allegedly occurred on 14.01.2018, the report is lodged on 17.01.2018. There is some attempt in the first information report to explain the delay. But then, it is ultimately for the Trial Court to evaluate the evidence and to consider the implication of the delay, if any, in lodging the report.

4] Perusal of the charge-sheet would reveal that there is no external injury whatsoever suffered by the prosecutrix. It is not even the version of the prosecutrix that she was assaulted. *Prima facie*, it appears that prosecutrix accompanied the applicant and Sagar and returned with them on motorcycle, at least till the Patur bridge. It would not be appropriate to minutely evaluate the evidence on record. However, in the teeth of the material on record, I am satisfied that this is the case for grant of bail. The co-accused Sagar is already released on bail by the learned Sessions Judge. It is not even the case of the prosecution that the applicant has antecedents or that he is likely to flee away from the course of justice.

5] The application is allowed.

- [i] The applicant be released on bail on his furnishing a personal bond of Rs.15,000/- with a solvent surety of the like amount.
- [ii] The applicant shall not tamper with the evidence nor shall the applicant directly or indirectly attempt to influence the witnesses in any manner.

JUDGE