

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

CRIMINAL BAIL APPLICATION NO.547 OF 2019

Mangesh Chandrakant Agale

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Ms.Afsan G. for applicant.

Ms.S.S.Kaushik, APP for the respondent-State.

Mr.S.D. Moghe, Police Hawaldar, Chakan Police Station, Pune.

CORAM : P.N. DESHMUKH, J.

DATE : 14th March 2019

P.C.:

. Accused involved in C.R. No.819 of 2018 registered with Chakan Nagar Police Station, Pune filed this application for bail.

2. Learned counsel for applicant contended that in fact prosecutrix and the applicant were in relation prior to incident which took place on 12th September 2018. However, by filing this report, applicant is falsely implicated. It is further submitted that CDR would reveal that prosecutrix herself had called applicant twice on the day of incident. By referring to medical evidence, it is further contended that its contents materially contradicts her FIR, wherein it is stated that accused at point

of knife sexually assaulted her, and that in the report, knife is referred as pointed to her waist, but according to medical report, some injuries are found, sustained by her on her right thigh. It is also submitted that since investigation is complete, accused be released on bail on imposing stringent conditions.

3. Learned APP opposed the application contending that contents of FIR are fully corroborated with the medical evidence and that filing of charge-sheet by itself is no ground for grant of bail when there is sufficient evidence against accused.

4. Perusal of report would reveal that on 12th September 2018, complainant proceeded in a vehicle towards Moshi driven by applicant, as Driver of a transport vehicle. On way, they had conversation during which applicant enquired with her and took her cell number while complainant also took applicant's cell number. She has further stated that while proceeding ahead, applicant stating that there is traffic ahead, suggested to proceed by Alandi road to which complainant agreed. It is further stated in the report that however, after going for some distance, applicant took his vehicle by Kachha road. Prosecutrix objected for it and attempted to alight from running vehicle however, could not succeed

and applicant by stopping the vehicle at the lonely place, on point of knife extended threats to her not to raise shout else she would be killed and subjected complainant to sexual intercourse against her wish. At about 5.00 p.m., applicant left her at the same spot and went away. She thereafter walked some distance to reach Alandi Phata and took auto rickshaw to reach her house.

5. FIR is dated 15th September 2018 and applicant is arrested on following day. Identity of applicant is fixed on the basis of statement of car owner who has stated that on the date of incident, applicant was driving the said vehicle which is used for transport of passenger from Bosari to Rajgurunagar.

6. Contents of report are found substantially corroborated with medical certificate as well as injury certificate. As according to the said document, there is evidence of vaginal penetration due to intercourse as well as injuries on person of complainant is of abrasions, and even the history as stated in medical certificate establishes the case of applicant.

7. Having considered the facts as aforesaid, as well as conduct of applicant of going away from the spot situated is a remote place

leaving behind prosecutrix alone, need to be taken into consideration which speaks in volumes.

8. Having considered evidence as above, no case is made out for grant of bail however considering young age of accused, trial is expedited. Learned trial Court ceased with sessions trial arising out of C.R. No.819 of 2018 registered by Chakan Police Station, Pune is directed to decide the same expeditiously preferably within six months from the date of receipt of this writ. Application is disposed of in above terms.

P.N. DESHMUKH, J.