

Anand

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

BAIL APPLICATION NO. 714 OF 2019

Suresh Balaji Kakade

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Irfan A. Shaikh, Advocate, for the Applicant

Mr. P. H. Gaikwad-Patil, APP, for the Respondent – State

Mr. Ravindra Ahire, API, CBD Belapur Police Station, Navi Mumbai
present

CORAM : REVATI MOHITE DERE, J.

DATE : 23.07.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-198 of 2017 registered with the CBD Belapur Police Station, Navi Mumbai, for the alleged offences punishable under Sections 376, 341, 342, 504 & 506 of the Indian Penal Code.

3. Perused the paper, in particular, the statement of the prosecutrix. According to the prosecutrix, aged 50 years, the Applicant,

aged 35 years called her to his house on 23.11.2017 in the evening at 7.00 p. m. The Applicant is alleged to have told the prosecutrix that he was hungry for the last 2-3 days and that as his mother had gone to the hospital, she was not cooking and asked the prosecutrix to come and cook for him. The prosecutrix has further alleged that when she went to cook for the Applicant, the Applicant was consuming alcohol. She has stated that after she finished cooking, the Applicant gave her a glass in which he had mixed alcohol. She has further stated that when she was about to leave his house, the Applicant locked the door of the house and told her not to leave and do as told. She has alleged that the Applicant had forcible physical relations with her. She has further stated that when her daughter came to call out her, the Applicant refused to open the door and finally opened the door at 10.00 p. m. The prosecutrix was immediately moved to the MGM Hospital. The statement of the prosecutrix recorded under Section 161 of the Cr.P.C. is consistent with her statement recorded under Section 164 of the Cr.P.C. as well as the history given to the Doctor. In the history given to the Doctor, the prosecutrix has stated that she was sexually assaulted by her neighbour (daughter-in-law's brother). She has stated that the Applicant gave her Thums Up mixed with alcohol and that later, she was found naked inside a room with the accused. The prosecutrix appears to have

sustained injuries on her hand and forearm. There are witnesses i. e. family members, who corroborate the prosecutrix's case.

4. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. The possibility of the Applicant tampering with the witnesses / prosecutrix also cannot be ruled out.

5. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)