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

CRIMINAL BAIL APPLICATION NO.1407 OF 2019

Suryakant Rajendra Jadhawar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.A.S.Sawant, for the Applicant.

Mr.S.S.Hulke, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th JULY, 2019

P.C. :

1. In view of the 'Not Before me' order passed by Hon'ble Shri Justice Sarang V. Kotwal, the aforesaid application is placed before this Court.

2. Heard learned counsel for the parties.

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.4 of 2019 registered with the Barshi Taluka Police Station, Solapur Rural, for the alleged offences punishable under

Sections 376(2)(j), 376(2)(l) and 452 of the Indian Penal Code.

4. Learned Counsel for the applicant has filed an affidavit of the applicant, wherein the applicant has undertaken that he will not enter village Chumb, Taluka – Barshi, District – Solapur, till the conclusion of the trial.

5. Perused the papers. The complainant is the grandmother of the prosecutrix, aged 28 years. She has stated that the incident took place on 5th January, 2019 at about 8.00 p.m., when the prosecutrix's husband had not returned home from field and when the prosecutrix was cooking in her house. She has stated that the prosecutrix disclosed to her that the applicant came in the house and allegedly raped her and that pursuant thereto, the prosecutrix assaulted the applicant with a sugarcane. The incident is of 5th January, 2019 and the complaint was lodged on 11th January, 2019. It appears that the prosecutrix is mentally challenged. The prosecutrix's 164 statement shows that the applicant had gone to her house and had attempted rape, however, she assaulted him with a wooden stick. The statement of the her neighbour – Indubai recorded on 7th February, 2019, also shows that on

the day of the incident, she heard someone shouting and that she saw the applicant leaving the prosecutrix's house. She has stated that when she asked the prosecutrix what had happened, the prosecutrix told her that the applicant tried to force himself on her, pursuant to which, she assaulted him on his head with a sugarcane. The applicant is in custody since 12th January, 2019. Investigation is complete and charge sheet is filed.

6. Considering the aforesaid and the affidavit of the applicant, in the peculiar facts of this case, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall not enter village Chumb, Taluka – Barshi,

District – Solapur, till the conclusion of the trial, except for the purpose of attending the police station as per clause (ii);

iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.