

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPPLICATION NO.1351 OF 2018

Vaibhav Lakshman Patil, Age 27 years,
R/o.Room No.677, Near Sugar Mills,
Marali, Nadi, Shivai Park, Augalewadi,
Tal.Karad, Dist.Satara
(presently lodged at Taloja Jail)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sagar Bhandare for applicant.
Ms.A.A.Takalkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd January 2019

PC :

1. This is an application for bail. The applicant was arrested on 12th June 2017 in connection with CR No.220 of 2017 registered with Rabale Police Station, New Mumbai for offences under Sections 376, 328, 354(c), 385, 363, 323, 506 r/w 34 of Indian Penal Code. The complainant has alleged that on 24th April 2017 the applicant had dropped the complainant and her family members by his Scorpio jeep to their residence. After reaching at home the complainant received a phone call from the applicant-accused and told her that the bag containing Prasad was lying in the jeep and she should collect the same. The complainant went to collect the said bag. She noted that the applicant and one another person were waiting at the place where she was called with his jeep. The accused opened the door and flashed a handkerchief containing some intoxicant on her face, as a result of which she lost her consciousness and subsequently

it is found that the accused had sexually assaulted her. Although the incident had occurred on 26th April 2017, the FIR was lodged on 11th June 2017. The supplementary statement of the complainant was recorded in which she has stated that other person accompanying the applicant had left the car. The complainant was examined by doctor and the case papers show that there were no injuries on her person. The charge sheet also includes the letter issued by Parulekar Hospital dated 12th June 2017 in which it was stated that the complainant had visited the hospital for treatment on 26th April 2017. Learned counsel for applicant submitted that the FIR is based on concocted version of complainant. According to the complainant, she had left home on 26th April 2017 on the call of applicant and thereafter the alleged incident had occurred and for a long period of time she was under influence of intoxication. It is not possible that she would be at both the places at the same time.

2. Learned APP submitted that although charge sheet is filed, the report of FSL with regards to cell phone of the applicant which was reportedly containing objectionable photographs is yet to be received.

3. The alleged incident had occurred on 26th April 2017. The FIR was lodged belatedly on 11th June 2017. There is no recovery of handkerchief which was purportedly containing intoxicant and used by the applicant-accused. The medical evidence does not corroborate the version of complainant. The complainant is a married lady aged about 27 years. The certificate issued by Parulekar Hospital and the supplementary statement of the complainant are also contradictory to the version reflected in the

FIR. The applicant is in custody from 12th June 2017. The mobile phone has been sent to FSL after the arrest of accused-applicant and recovery of the same. However, no report in that regard is received till date. Considering the circumstances, the FIR and other documents, further custody of the applicant is not required. Charge sheet is filed. There are no antecedents against applicant.

4. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1351 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.220 of 2017 registered with Rabale Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report the investigating officer of Rabale Police Station once in a month on every first Saturday between 11 am and 1 pm till conclusion of trial;
- (iv) The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for four weeks;
- (v) The applicant shall not tamper with the evidence and shall attend trial Court proceedings regularly, unless exempted by the trial Court for some reason.

(PRAKASH D.NAIK, J.)