

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2353 OF 2018**

Naik Haroon Rashid P.H. & Ors.

.... Applicants

versus

The State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Biju Antony Aloor for Applicants.
- Mrs. A. A. Takalkar, APP for the State/Respondent.
- Mrs.Jyoti Y. Kadu, PSI, Khadki Police Station, is present.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th JUNE, 2019

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R.No.I 353 of 2018 registered with Khadki Police Station, Pune, under sections 376(2)(e), 376(2)(i), 376(2)(n) and 354-A, r/w. 34 of the Indian Penal Code.

2. The F.I.R. is lodged by the prosecutrix on 16/10/2018. According to her, she is deaf and dumb and she was working as a Ward Assistant with Military Hospital, Range Hills, Khadki, Pune since July 2014. The hospital had three shifts for working and the shifts kept changing periodically. It is her case in the FIR that in January, 2015 the applicant No.1 committed rape on her in

Bathroom. The applicant No.2 also took advantage of her situation and committed rape on more than one occasion. The FIR also mentions that two more accused committed rape repeatedly on her on different occasions. On these allegations, she had lodged the FIR.

3. Heard learned counsel Shri. Biju Aloor for the applicants and Mrs. A. A. Takalkar, learned APP for the State.

4. At the outset, learned counsel for the applicants submitted that he is not pressing the application for the applicant No.2. Accordingly, the application for applicant No.2 is dismissed.

5. So far as applicant No.1 is concerned, it is the case of applicant no.1 that he was not working in the said hospital in January 2015. The learned APP on instructions makes a statement that in January, 2015 the applicant no.1 was posted and was present on his duty in Manipur and Assam. She further submitted that he joined the duty at the concerned hospital since August, 2015, therefore, there is force in the submission of learned counsel for the applicant no.1 that the applicant no.1 could not have committed rape in January, 2015, as alleged by the prosecutrix.

Only allegation against the present applicant No.1 is that he is supposed to have committed rape on the prosecutrix specifically in January, 2015 and since the applicant no.1 has service record to the contrary as pointed out by learned APP, he has established that he was on duty at Manipur and Assam in January, 2015. Therefore, the applicant deserves protection of anticipatory bail.

6. Hence, the following order :

ORDER

- (i) In the event of arrest of applicant No.1 in connection with C.R. No.I 353 of 2018 registered with Khadki Police Station, Pune, the applicant No.1 is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant No.1 shall attend the concerned police station from 24/06/2019 to 27/06/2019 between 2.00p.m. to 5.00p.m. and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)