

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1247 OF 2020

ASHOK @ KORDYA SAVLIRAM GAIKWAD (VEDAR)
VERSUS
STATE OF MAHARASHTRA

Mr. Paresh B. Patil (Borse), Advocate for the applicant.
Mr. V.S. Badakh, APP for the respondent/State.

CORAM : V.L.ACHLIYA,J.
DATED : 04.11.2020

P.C. :-

01. The applicant has moved this application seeking regular bail on the grounds mentioned in detail in application.

02. Heard learned Counsel for the applicant and learned APP for the respondent/State. Perused the charge-sheet and order passed by the learned Additional Sessions Judge, Jalgaon rejecting the application filed by the applicant.

03. By referring to overall facts of the case, the FIR lodged by the informant and the evidence collected by the prosecution in support of case of the prosecution, learned Counsel submits that no case is made out against the applicant to attract the offences punishable under sections 376 and 354 (d) of the Indian Penal Code.

04. It is submitted that there is delay of 24 hours in lodging the complaint. The police station is located hardly 3 kms. from the village of the victim. The complaint has been lodged after due deliberation to falsely implicate the applicant. It is submitted that the version of the incident given by the victim finds no support from the circumstantial evidence and medical report of examination. It is submitted that nicker of the victim was not found on the spot of incident. No bodily injury found on the person of the victim as well as the accused, though it is alleged that the victim was raped by the applicant in the agricultural field. So also, there is no witness to support the version of incident

given by her and gave call for help. The incident has taken place in day time. The people present in the adjoining field must have heard the calls given for help, if really such incident had taken place in a manner stated by the prosecutrix. It is submitted that the applicant is lying in jail since last one year. He is sole bread earner in his family. He has deep roots in the society and there is no possibility of his abscondance, if released on bail.

05. On the other hand, learned APP opposed the application with contention that there is strong prima facie case to connect the applicant with the offences charged against him. By referring to facts of incident narrated by the prosecutrix, learned APP submits that the victim has given full account of incident of rape committed with her. By referring to report of medical examination of prosecutrix, seizure panchanama and the CA report, learned APP submits that the evidence collected during the course of investigation duly supports the

version of incident given by the victim. It is submitted that looking to the nature of the offence, strong evidence to support the charge against the applicant, the applicant does not deserve to be enlarged on bail. It is further submitted that in the facts and circumstances of the case, possibility of the applicant being abscond if released on bail cannot be ruled out. So also, release of the applicant on bail would endanger the life of the victim and other witnesses. He may pressurize the prosecution witnesses.

06. On due consideration of submissions advanced, considering the nature of accusation against the applicant and the evidence collected by the prosecution to support the charge against the applicant, I am of the view that the applicant does not deserve to be enlarged on bail. The applicant is charged with offences punishable under sections 376, 354 (d) and 506 of the Indian Penal Code. The victim has lodged complaint on 13.10.2019 giving the complete account of the incident

occurred on 12.10.2019. She has categorically stated that on 12.10.2019, when she was proceeding towards her field, the applicant followed her. At about 12.30 noon when she reached in her field and put lunch box, water bottle and handkerchief in the agricultural field, she realized that someone is standing behind her. When she turned back, she saw the applicant standing at a short distance from her and coming towards her. She, therefore, started running. When she reached in the agricultural field of one Sahebrao Kumbhare, the applicant chased her. He gagged her mouth. He assaulted her. He forcibly put her on the ground and committed forcible sexual intercourse with her. While returning to her house, on the way she met one Nana Daulat Patil. She disclosed to him the incident. She narrated the incident to her husband. Since her husband was not well, she visited police station after her father-in-law reached home.

07. The FIR lodged by the informant gives complete account of the incident. At this stage, there is no

reason to disbelieve the version of the incident given by the prosecutrix. The version of the incident given by the prosecutrix finds support from the statement of witnesses and the circumstantial evidence gathered during investigation. The statement of Nana Dault Patil, to whom the applicant met immediately after the incident and disclosed about the incident, he has corroborated the version of informant-victim. The clothes of the prosecutrix found to have bloodstains. The semen detected on the clothes of the victim as well as applicant claimed to be blood group as that of applicant.

08. In that view, there is strong prima facie case to establish complicity of applicant in commission of offence. The nature of accusation made against the applicant and offences charged are serious in nature. The delay in lodging the complaint has been duly explained. There are no reasons assigned to accept the contention of learned Counsel that the applicant has been falsely implicated in the case due to enmity with the prosecutrix

and her family. In the facts and circumstances of the case, the possibility of the applicant to abscond, if released on bail, cannot be ruled out. So also release of the applicant would endanger the life of the prosecutrix and witnesses. I am, therefore, not inclined to entertain the application. Accordingly, the application is rejected.

[V.L.ACHLIYA,J.]