

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 792 OF 2019

Kalvindersingh @ Kalusingh
Rajendrasingh Bavari
Age 26 years, occ. Labour
r/o New Kautha Road,
Nanded, Dist. Nanded.

Appellant

Versus

1. The State of Maharashtra
2. Kalpana Mukund Kamble
Age 27 years, occ. Staff Nurse
r/o Yashosai Hospital, Nanded
Dist. Nanded.

Respondents

Mr. A.S. Bayas, Advocate for the appellant.
Mr. M.M. Nerlikar, APP for respondent No. 1.

**CORAM : T.V. Nalawade &
M.G. Sewlikar, JJ.**

DATE : 31st January, 2020.

JUDGMENT : (PER T. V. NALAWADE, J.)

1. Appeal is filed to challenge the order passed by the learned Additional Sessions Judge – 5, Nanded, in Special (Atro) Case No. 32/2017.

2. At Exhibit 24, application was filed by present appellant

for regular bail in case which is filed for offence punishable under Sections 376(D), 452, 323, 506 of the Indian Penal Code, 3(1)(W)(I) and 3(2)(V) of SC and ST (Prevention of Atrocities) Act and under Section 4 read with Section 25 of the Indian Arms Act.

3. Heard both the sides. Learned counsel appointed on behalf of respondent No. 2- informant is absent.

4. This Court has carefully gone through the First Information Report given by the prosecutrix who is 25 years of age. It is her contention that on that night the present appellant alongwith others had knocked the door of her house and when she questioned as to who was there, nobody replied but they opened the door by breaking the window shield. It is her contention that the present appellant raped her. It is her contention that others had helped the present appellant. It is her contention that as sword was shown she did not raise shouts. The report was given on 24.07.2017 itself.

5. This Court has carefully gone through the record of medical examination of the prosecutrix and spot panchanama. Though spot panchanama shows that window shield was broken,

medical report does not support to show that any force was used against the prosecutrix. Even when she has contended that force was used and glass of window was opened, no neighbour had approached the spot and she narrated the incident on the next day to the neighbours.

6. The appellant has been behind bar as an under trial prisoner since 2017. Though learned APP submits that the case can be disposed of expeditiously, it is not certain as to how much time will be required for disposal of the case.

7. In view of this, this Court holds that it is not desirable to keep the appellant behind bar till disposal of the proceeding. Learned counsel for the appellant made statement that this is the first proceeding which is filed in this Court for relief of bail and in the past no proceeding for such relief was filed in this Court.

8. In view of this, this Court holds that the appeal deserves to be allowed. Hence the following order :

ORDER

1. Appeal is allowed.

2. Order under challenge is quashed.
3. Application for bail filed by the present appellant is allowed.
4. Appellant be released on bail on furnishing PR bond of Rs. 30,000/- (Rs. Thirty Thousand only) with one solvent surety in the like amount.
5. He shall not tamper with prosecution witnesses.
6. He shall not commit any offence while on bail.

(M. G. SEWLIKAR)
Judge

(T.V. NALAWADE)
Judge

dyb