

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2632 OF 2018

Nilesh Uttam Nighot .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr.Sachin Pawar for the Applicant.

Mr.S.V.Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 8th DECEMBER, 2020

P.C:-

1. On 9th May, 2018, the applicant is charge-sheeted in C.R.No.80 of 2018 registered with Manchar Police Station, Pune thereby invoking Sections 376 and 506 of the Indian Penal Code.

The complainant lodged a complaint on 23rd February, 2018 alleging that she had visited the temple and spotted the present applicant on his motorcycle. It is alleged that at around 1.45 p.m. when she was returning home, the applicant grabbed her from behind and dragged her in a sugarcane field. It is alleged that he pushed her on the ground, removed her clothes and committed forcible sexual intercourse with her, against her will. It is alleged that the applicant threatened her that if she disclose the incident to any third person, he would kill her. She

narrated the incident to her husband, which resulted into the registration of FIR. The applicant came to be arrested in the said C.R. on 24th February, 2018 and since then he is languishing in jail.

2. With the assistance of the learned counsel for the applicant and the learned APP, I have perused the charge-sheet. The charge-sheet contain statements of witnesses, who have narrated the version of the prosecutrix resulting into registration of FIR. The prosecutrix is aged 28 years and is married. During the course of investigation, her statement under Section 164 is recorded before the Judicial Magistrate First Class, Ghodegaon, Pune. She state that when she was enroute her house, one person followed her and grabbed her from behind. She was dragged into a sugarcane field and threatened that if she makes any voice, he would kill her. He committed forcible sexual intercourse with her and then left her. In her statement under Section 164, she state that she went to the police station and there she came to know that the name of the person is Nilesh Uttam Nighot.

3. The case of the applicant is that the husband of the prosecutrix has borrowed an amount of Rs.25,000/- from him and in order to avoid the repayment, he has been falsely implicated. The learned Additional Sessions Judge disbelieved the said version since there is nothing on record to establish the said fact. The statement of the prosecutrix clearly indict the

applicant. She was subjected to the medical examination on the very same date when the alleged incident has taken place i.e. on 23rd February, 2018 at 11.15 p.m. The medical report except referring to a contusion of mid part of chest, do not mention about any external visible injury. The opinion expressed is "According to her history, sexual violence has occurred." The position of law, in absence of injuries of violence on prosecutrix, who alleged to have been sexually assaulted, is well settled. There is no reason why the statement of the prosecutrix cannot inspire confidence in the absence of injuries. The involvement of the applicant in the act complained would be ascertained on the basis of the material available in the charge-sheet, at the time of trial.

On completion of investigation, charge-sheet is filed and nothing remain to be recovered from the applicant. He is incarcerated since 24th February, 2018 and it is almost 33 months, the applicant is incarcerated. By ensuring that he will not in any way indulge with the prosecutrix or create pressure upon her, the long incarceration entitle him to be released on bail subject to the following conditions.

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant – Nilesh Uttam Nighot shall be released on bail in C.R.No.80 of 2018 registered with Manchar Police Station on furnishing P.R.

bond to the extent of Rs.20,000/- with one or two sureties of the like amount.

(c) The applicant will not enter Taluka Ambegaon, District Pune where the prosecutrix is residing, during the pendency of the trial.

(d) The applicant shall mark his attendance in the Sessions Court where the case is committed once in every two months and thereafter when the trial commences, he shall attend the trial on each and every date, unless exempted.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

4. The Application is disposed of in the aforesaid terms.

SMT. BHARATI DANGRE, J