

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

959 BAIL APPLICATION NO.1266 OF 2021

**NAGESH MAROTI NAGURE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. A. V. Indrale Patil, Advocate for the applicant
Shri. V. M. Kagne, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 18th NOVEMBER, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with CR No. 80 of 2021 registered with Markhel Police Station, District Nanded for the offence punishable under Section 376(1) of the Indian Penal Code.

2. Prosecution case is that on 9th May, 2021 the informant was sitting below a tree. Applicant came there at about 1.00 p.m. and pressed her breast. He physically lifted her and took her to the field where hybrid was grown. He took off his pant and committed rape on her. When the

informant started screaming, her husband and one Raju Motiram Jadhav came there. Applicant ran away from the spot. Accordingly, FIR came to be lodged on the same day.

3. Heard Shri. Indrale Patil, learned counsel for the applicant and Shri. Kagne, learned APP for the respondent/State.

4. Learned counsel Shri. Indrale submits that the offence has been registered because of political rivalry. He further submits that medical evidence does not support the allegations of rape. He submits that the informant had no injury. Therefore, the allegations of rape do not get substantiated.

5. Learned APP Shri. Kagne for the respondent/State submits that the informant has narrated the same story while recording statement under Section 164 of the Code of Criminal Procedure. He further points out that spot panchnama shows that crop at the place where rape was

committed was found trampled. He submits that this clearly shows that the applicant committed rape on the informant.

6. Charge-sheet is filed. Medical report does not show that the informant had any injury. When the informant was physically lifted and taken to the field, she did not raise any shout. Spot panchnama shows that the earth at the spot where the rape was committed was found trampled. In that eventuality there ought to have been some injuries on the person of the informant. In view of this, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 80 of 2021 under Section 376(1) of the Indian Penal Code registered with Markhel Police Station, Dist. Nanded and on condition that he shall not enter the village till the conclusion of the trial.

3. Hamdust is allowed.
4. Application is disposed of.
5. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp