

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 2 OF 2021

(Raju Dnyaneshwar Deshbhartar

Vs.

State of Maharashtra)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri M.V. Bute, Advocate for the applicant.

Shri Amit Chutke, A.P.P. for the non-applicant /State.

CORAM: MRS. SWAPNA JOSHI, J.

DATED : 25th JANUARY, 2021.

Heard Shri M.V. Bute, the learned counsel for the applicant and Shri Amit Chutke, the learned APP for the non-applicant/State.

2. By this application, the applicant is seeking regular bail in Crime No. 863/2020 registered at Police Station Walgaon, District Amravati for the offence punishable under Sections 452, 376 & 506 (2) of the Indian Penal Code.

3. The prosecution case is that the prosecutrix is a divorcee having three children. When the prosecutrix was residing at Badnera on rent, the applicant used to visit her house frequently. The applicant was continuously pursuing the prosecutrix for the marriage, however, prosecutrix refused for the same. Prosecutrix then shifted to another place. On 16.11.2020 at about 07.30 pm., the applicant visited the house of prosecutrix.

At that time, he forcibly committed sexual intercourse with her. On 02.12.2020, there was a theft in the house of prosecutrix. She suspected that the applicant might have committed the said theft. It is alleged that the applicant had threatened her long back to set her house on fire. Significantly, at that time, the prosecutrix did not lodge any complaint against the applicant. On 03.12.2020, the prosecutrix lodged the complaint against the applicant at Police Station Walgaon.

4. Shri Bute, the learned counsel for the applicant vehemently argued that although the allegations are made against the applicant that on 16.11.2020, he forcibly committed sexual intercourse with the prosecutrix, the prosecutrix did not lodge any complaint against the applicant. She also failed to lodge any complaint against him, when he has allegedly threatened her to set her house on fire. Only when the theft has taken place in her house on 02.12.2020, on 03.12.2020, she lodged the report. It is submitted that the applicant be released on bail, as he will cooperate with the investigation.

5. Shri Chutke, the learned APP opposed the said application.

6. After hearing both the sides and on a perusal of the reply and case papers, it is noticed that the prosecutrix has not reported the matter to the Police on the day of incident of rape or within a few days. It is also noticed that only when the theft has taken place in her

house, she suspected that the applicant might have committed the said theft, and therefore, she lodged the report. The prosecutrix also failed to lodge any report when the applicant allegedly threatened her.

7. Considering the nature of the offence, in my considered opinion, this is a fit case to grant bail to the applicant on imposing certain conditions. Hence, the following order.

ORDER

- i. The Criminal Application is **allowed**.
- ii. The Applicant – Raju Dnyaneshwar Deshbhartar, be released on bail in Crime No. 863/2020 registered at Police Station Walgaon, District Amravati for the offence punishable under Sections 452, 376 & 506 (2) of the Indian Penal Code, on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- iii. The Applicant shall neither tamper with the evidence so far collected by the prosecution nor pressurize the prosecution witnesses in any manner.
- iv. The Applicant shall attend the concerned police station on every Thursday between 11.00 a.m. to 2.00 p.m.

- v. The Applicant shall not indulge in similar type of offence in future. If it is noticed that he is involved in such type of offence, the prosecution will be at liberty to move for cancellation of bail.
 - vi. The Applicant shall keep himself away from the limits of area where the prosecutrix and other witnesses are residing.
 - vii. The Applicant shall not change the place of residence without prior intimation to the concerned police station.
 - viii. The Applicant shall attend the dates of hearing regularly in the trial court.
 - ix. His two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.
8. Criminal Application stands **disposed** of accordingly.

(MRS. SWAPNA JOSHI, J.)

SD. Bhimte