

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

933 BAIL APPLICATION NO.7 OF 2022

Shaikh Jamshed s/o Shaikh Shamim ... Applicant

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Shri Hemantkumar F. Pawar
APP for Respondent – State : Shri V. S. Badakh
...

CORAM : M. G. SEWLIKAR, J.

DATED : 25-01-2022

PER COURT :-

1. Heard.

2. It is the prosecution case that applicant is the neighbour of the informant. Once he had taken the son of the informant and had given him Ice-Cream. He threatened her that she should keep relations with him else he would kidnap her son and would kill her son and her husband.

3. It is further alleged that on 04th May, 2020 at 09.00 p.m. applicant took the informant to a deserted house behind house of Rafiq Pahelwan in Muslim Colony had sexual intercourse with her against her will. She did not lodge the report immediately

for the fear of being maligned. Therefore she lodged the report on 29th September, 2021.

4. Learned counsel Shri Pawar submits that informant had filed N.C. against the applicant on 17th July, 2020. On the same day applicant had filed N.C. against informant. He submits that their relations are strained and therefore false complaint has been filed. He submits that on 17th July 2020 while lodging N.C. she did not make any allegation about alleged rape. He further submits that on 20th July, 2020 she lodged the report with the police and in that report she did not give any details about the incident of rape. He submits that false FIR is lodged because the relations between the applicant and the informant are strained.

5. Learned APP Shri Badakh for the respondent – State submits that the informant had lodged the report on 20th July, 2020 with the police raising grievance against the illicit relations of the applicant. He submits that at that time only, the police authorities ought to have registered the FIR. Because of the failure of the police authorities, applicant cannot be blamed. For the fear of the society she did not lodge the report. He submits that offence is serious in nature. Hence, application may be rejected.

6. Admittedly, the relations between the applicant and the informant are strained. Both of them had filed N.C. against each other on 17th July 2020. On 17th July 2020 the informant lodged the report with the police station alleging therein that applicant is forcing her to keep illicit relations with him and he is threatening of kidnapping her son. By putting her in fear of kidnapping of her son, the applicant has forced to keep illicit relations with him. He submits that the application, therefore, deserves to be rejected.

7. In the report dated 21st July, 2020, informant did not mention the details of the incident. For the first time she has given the details of the alleged rape. On 17th July, 2020 while giving the N.C., no allegations about rape were made against the applicant. Considering the strained relations between the parties and considering the delay in lodging the FIR, I am inclined to release the applicant on bail on stringent conditions. Hence the order :

ORDER

- (i) Application is allowed.
- (ii) Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 408 of 2021

under Sections 376(2)(n), 354, 504, 506 of the Indian Penal Code registered with Bhusawal Bazar Peth Police Station, Jalgaon, on condition that he shall not enter Bhusawal town till the conclusion of the trial.

(iii) Application is disposed of.

(iv) 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.]

shp/-