

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 179 OF 2022

Dnyaneshwar @ Bandu S/o Nagnath Munde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. J. M. Murkute, Advocate for the applicant.

Mr. G. O. Wattamwar, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 25th MARCH, 2022.

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 Crime No. 0009/2022 registered with Gangakhed Police Station, Dist. Parbhani for the offences punishable under Sections 376(2)(n), 354(D), 506 of the Indian Penal Code.

2. Prosecution case in short is that informant is a widow. She lost her husband about 15 years before the incident. She has a son who is working in a company at Pune since past one month since before the date of the incident.

3. The informant has alleged in the First Information Report that applicant is the owner of the adjoining field of her father. Applicant used to stalk her and used to threaten her to live with him. The applicant was admonished by the villagers but there was no change in his behaviour. About six months prior to the incident, the informant was working in the field of her father. Applicant came there and had forceful sexual intercourse with her. He had threatened her of dire consequences if she shared this incident with anyone. He had repeated this act even after this incident from time to time and had put her in fear of killing her and her son. On 10th January, 2022, at 1.00 pm, the informant was watering the field of her father. Applicant came there and dragged her in the crop of sugarcane. The informant resisted him. Applicant assaulted the informant with fist blows and had forceful intercourse with her. At that time also, he had threatened the informant that she and her son would be done away with if she shared this incident with anyone. On these allegations, First Information Report came to be lodged on 10th January, 2022 itself.

4. Heard Shri Murkute, learned counsel for the applicant and Shri Wattamwar, learned APP for the State.

5. Learned counsel Shri Murkute submits that the informant and the applicant are staying together for the last four years. He submits that the marriage of applicant's daughter is settled and the informant does not want the applicant to spend in the marriage of his daughter. Since the applicant did not listen to the informant, she filed this First Information Report against the applicant with the intention to dissuade him from expending in the marriage of his daughter. He further submits that the allegations in the First Information Report themselves show that the alleged sexual intercourse was with consent. He submits that the applicant is behind the bars since last more than two months. He further submits that the medical report does not show that the informant had any injury on any part of her body except a minor abrasion. He, therefore, seeks release of the applicant on bail.

6. Learned APP Shri Wattamwar submits that there was abrasion on the back of the informant. He submits that there are stains on the clothes of the informant. CA report will show involvement of the applicant in the commission of the offence. He further submits that the statement of the victim under Section 164 of

the Code of Criminal Procedure is consistent with her narration in the First Information Report.

7. Charge-sheet is filed. From the tenor of the First Information Report, it is seen that the applicant had sexual intercourse with the informant number of times. It appears that she did not report the incident to the police. It further appears from the First Information Report that about six months before the incident the first forceful sexual intercourse had taken place. Thereafter also there were instances of forceful sexual intercourse. Despite that, no report was lodged. It is further alleged in the First Information Report that on the date of the incident i.e. on 10th January, 2022, the informant was assaulted by fist blows by the applicant. If that be the case, she would have sustained injuries. She lodged First Information Report soon after the incident. But no injuries were noticed by the Medical Officer except a minor abrasion on her back. Whether this was caused during the incident will be clear only during the trial. Applicant has produced copy of Invitation Card indicating that the daughter of the applicant is going to get married. Shri Murkute further submits that since the applicant is in jail, the marriage has been postponed. Having regard to the circumstances

and the evidence collected by the prosecution, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount in connection with Crime No. 0009/2022 registered with Gangakhed Police Station, Dist. Prbhani for the offences punishable under Sections 376(2)(n), 354(D), 506 of the Indian Penal Code on condition that he shall not tamper with the prosecution evidence.
- iii) Application stands 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)
Judge