

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

BAIL APPLICATION NO.1389 OF 2022

Dnyaneshwar Shankar Devke

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr.S.J.Salunke, Advocate for applicant

Mr.V.S.Badakh, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 07, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0679 of 2022 registered with M.I.D.C. Waluj Police Station, Dist.Aurangabad.

2. Heard learned counsel appearing for the parties.

3. The First Information Report (FIR) has been lodged by the victim on 02.08.2022. It is her case that she was residing at Shivneri Colony, Ranjangaon, Tq.Gangapur, Dist. Aurangabad, along with her husband and child. On the given date, i.e. on 27.07.2022, her husband was away to his native place and her son was away at his work place in M.I.D.C., Waluj. It was 9.30 p.m., the victim was alone

at home. The applicant, husband of the informant's step-sister, came her home. After having ascertained that the informant's husband was at his native place, the applicant committed rape of the informant. It is further alleged in the FIR that the applicant had snapped video and threatened the informant of making it viral.

4. Learned counsel for the applicant would submit that there is delay of six days in lodging of the FIR. There is reason for falsely implicating the applicant herein. The police station was at a distance of 3 kms. from the house of the informant. He, therefore, urged for grant of bail.

5. Learned APP would on the other hand submit that the offence is serious one. Investigation is underway. He, therefore, urged for rejection of the application.

6. The informant is 34 years old married woman. The alleged incident took place on 27.07.2022. The FIR has been lodged six days thereafter. From the papers of investigation so far made, it appears that the victim informed the incident to her husband and the brother as well. There is statement of one labour, who states to have seen the victim and one person together by 09.30 p.m. on 27.07.2022.

7. From the papers of investigation, it appears that the investigation is almost over. The medical examination of the prosecutrix may not favour the prosecution, since the same must have been done six days after the alleged incident. As such, it is a case of sole statement of the victim herself. In view of the same, the Court is inclined to grant the applicant bail.

8. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0679 of 2022 registered with M.I.D.C. Waluj Police Station, Dist.Aurangabad, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence.

[R.G. AVACHAT, J.]

KBP