

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1618 OF 2021

Vikas s/o Sharad Itkar

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.S. More, Advocate for the applicant.

Mr. V.S. Badakh, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 12th JANUARY, 2022.

PER COURT :

1. Heard.

2. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0121/2021 registered with Ambi Police Station, Taluka Bhoom, Dist. Osmanabad, for the offences punishable under Sections 376, 323, 506 of the Indian Penal Code.

3. Allegations in the First Information Report are that on 9th August, 2021 at 2.00 pm, informant had left the house for attending nature's call in the field of one Desai behind public toilet. At that very moment, applicant came there. He fell her down, slapped her,

pulled her hair and committed rape on her. He had threatened to finish her and her entire family. Since the informant did not return, her mother-in-law Lilawati came in search of her. She saw the applicant and informant in compromising position and she pelted a stone at the applicant. On these allegations, First Information Report came to be lodged on the next day i.e. on 10th August, 2021.

4. Shri More, learned counsel for the applicant submits that from the tenor of the First Information Report, it is seen that the alleged sexual intercourse was with consent. However, First Information Report came to be lodged as mother-in-law of the informant saw the incident. He submits that charge-sheet is filed. Detention of the applicant is, therefore, not warranted.

5. Learned APP opposed the application.

6. First Information Report has been lodged after a day of the incident. Since informant is a married women, medical report is not of any assistance to the prosecution. This is the first offence of the applicant. He does not have any criminal antecedent. Nothing is brought on record to indicate that applicant will not be available for

trial. In this view of the matter, 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. 35,000/- (Rs.Thirty Five Thousand) with one solvent surety in the like amount in connection with Crime No. 0121/2021 registered with Ambi Police Station, Taluka Bhoom, Dist. Osmanabad, for the offences punishable under Sections 376, 323, 506 of the Indian Penal Code, on condition that he shall not tamper the prosecution evidence.
- iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge