

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.330 OF 2021

Nitin Mahadev Dixit

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Sachin H. Deokar for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent-State.

Mr.Shashikant D. Khopade, PN/2475, Vadgaon Maval Police
Station.

CORAM : C.V. BHADANG, J.

DATE : 2 MARCH 2022

P.C.

. By this Application, the Applicant is seeking bail arising out of Crime No.236 of 2018 of Vadgaon Maval Police Station, Pune under Section 452 and 376 of the Indian Penal Code.

2. The aforesaid crime is registered on the basis of the complaint lodged by the prosecutrix who at the relevant time was 42 years of age and a married lady.

3. The Applicant is having ancestral property at Punaval, District-Pune. On account of the dispute on the ancestral property with her brother she had shifted at Pune where

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she got acquainted with the Applicant. According to the informant, the Applicant represented that he can help her out in the matter of the dispute with her brother and taking undue advantage of the said acquaintance had committed forcible sexual intercourse with her on 5 August 2020 at about 7 p.m. at a rented premises of the Applicant belonging to one Rathod.

4. I have heard the learned counsel for the parties. Perused record.

5. A perusal of the FIR shows that the prosecutrix immediately after incident came out of the room where she met the mother of the Applicant and narrated the incident to her. She claims that the mother of the Applicant persuaded her not to report the matter to the Police Station. However, she went to Police Station, Vadgaon Maval at about 8.15 p.m. However, on account of the fact that there was no lady Police Officer present in the Police Station, she narrated incident to the Station House Office only attributing an assault to the Applicant. In other words in the report lodged on 5 August 2018 immediately after the incident, she did not narrate the incident of the sexual assault. It is only on 6 December 2018 that she lodged another complaint stating that the Applicant had sexually abused her on 5 August 2018.

6. In this case after investigation a charge-sheet is filed. It can *prima facie* be seen that in the report immediately lodged after the incident the prosecutrix has not attributed any sexual assault to the Applicant. It is not necessary to go into the reason at this stage. She states that as in the interregnum the Applicant started harassing her, she reported the actual incident on 6 December 2018. The Applicant has been arrested on 7 December 2018 and has completed more than 3 years in jail.

7. The learned Additional Public Prosecutor submitted that there are criminal antecedents to the discredit of the Applicant in Crime No.56 of 2014 and 244 of 2014 at Wadgaon Maval Police Station. It is submitted that the Applicant may misuse his liberty.

8. In my considered view, having regard to the overall circumstances, the apprehension expressed on behalf of the prosecution can be taken care of by imposing conditions.

9. In the result the following order is passed.

ORDER

- (i) The applicant Nitin Mahadev Dixit be released on bail, on executing a P.R. Bond in the sum of

Rs.25,000/-with one or two solvent sureties, in the like amount.

(ii) The applicant shall undertake to remain present before the learned Sessions Judge during the trial, unless exempted.

(iii) The applicant shall not enter jurisdiction of the PS Vadgaon Maval and shall not make any attempt to directly or indirectly to contact the victim and shall not otherwise tamper with the prosecution evidence/ witnesses.

(iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(v) The bail bonds to be furnished before the learned Sessions Judge.

(vi) The Criminal Application is disposed of in the aforesaid terms

C.V. BHADANG, J.