

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1152 OF 2022

Uttam Maruti Ithape ...Applicant
Versus
The State of Maharashtra ...Respondent

....

Mr. Vaibhav R. Gaikwad, Advocate for the Applicant.
Mr. N. B. Patil, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th OCTOBER, 2022.

P.C.

1. This is an application for bail under Section 439 of Cr.PC. in connection with C.R. No.185 of 2021 registered with Bhuinj Police Station, Dist. Satara for offences under Section 376(2)(1) and Section 452 of Indian Penal Code (for short 'IPC').

2. The First Information Report (for short 'FIR') was registered on 31st July, 2021 alleging that the complainant is resident of Tq. Koregaon, Dist. Satara. His daughter was married about 18 years ago. She is mentally retarded. Her husband died about one year ago. She was residing with her mother-in-law and other family members. On 31st July, 2021 the wife of the complainant received a call that she is called at Bhuinj Police Station. The complainant and villager Nilesh Shingte visited the Police Station. He came to know

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from brother-in-law of his daughter that the applicant/accused had entered into their house and subjected his daughter to sexual intercourse.

3. The applicant was arrested. Statements of witness were recorded. On completing investigation charge-sheet was filed.

4. The applicant preferred an application for bail before the Sessions Court at Satara which was rejected by order dated 9th December, 2021.

5. Learned Advocate for the applicant submitted that the applicant is senior citizen. He is aged around 77 years. The applicant is falsely implicated. The victim is lady aged around 40 years. There is no corroborative evidence to support the prosecution case. There is no report of medical examination of victim.

6. Learned APP submitted that the offence is of serious nature. The accused is the neighbour of the victim. There are specific allegations against the applicant. There is no reason to disbelieve the version of the victim. The victim was mentally handicapped women.

7. The FIR was lodged by the father of the victim lady. The applicant is in custody from 31st July, 2021. The statement of the

victim lady was recorded on 1st August, 2021. She has stated that her mother-in-law was out of house and her brother-in-law was out of station. She was alone at home. The accused entered into her house and sexually assaulted her. Her brother-in-law reached home. The accused left the house. He was seen by her brother-in-law and others leaving their house. She informed about the incident to her brother-in-law. Police were called. The victim and others visited Police Station. On perusal of statement it can be seen that, the victim has given detailed version of incident although it is alleged that she is mentally retarded. Statement of brother-in-law of victim was recorded on 1st August, 2021. He stated that he returned home for collecting his mask in the afternoon and the door was found closed. It was opened by the Accused. Hence, he called his neighbours in the house. On inquiry with the victim, she informed that the accused had entered into their house and forcefully committed the alleged act. Perusal of charge-sheet does not indicate that the medical examination of the victim lady was conducted. It is not brought on record whether any CA report corroborates the involvement of accused. The statement of witnesses and Aadhar Card of applicant indicate that the applicant was aged around 77 years. Further detention of the applicant is not necessary.

8. Considering the factual aspect of this matter, bail can be granted to the applicant.

ORDER

- i. Criminal Bail Application No.1152 of 2022 is allowed.
- ii. The applicant is directed to be released on bail in connection with C.R. No.185 of 2021 registered with Bhujinj Police Station, Dist. Satara on executing PR. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of eight weeks in lieu of surety.
- iv. The applicant shall not tamper with the evidence.
- v. Application stands disposed of accordingly.

[PRAKASH D. NAIK, J.]