

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1448 OF 2021

Mohamed Moussao Ali Ahmad]
Shaikh @ Ahmad Sheikh] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

...

Mr. M.M. Khokhawala with Ms. Megha Puralkar for the applicant.

Ms. S.S. Kaushik, A.P.P. for the State.

Mr. Tanaji Patil, PSI attached to Vanrai Police Station is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH MARCH, 2022.

P.C. :-

1. Heard learned counsel for the applicant and learned A.P.P. for the State.
2. The applicant is charge-sheeted in C.R. No.159 of 2020

invoking Sections 328 and 377 of the IPC. A complaint came to be lodged with the concerned Police Station by a young boy, aged 19 years, alleging that he was sexually assaulted by one unknown person on 5/06/2020 when he was taking a stroll after his dinner at the place mentioned in the complaint. He alleged that while on stroll, an unknown person came from the back and covered his mouth with a handkerchief and he felt giddiness and when he gained conscious, he saw the unknown person forcing himself upon him. He gave the description of the person by describing his features and clothes worn by him. On the very next day, when he felt certain discomfort, he informed his father about the incident and his father also attempted to search for the unknown person. On 07/06/2020, when he and his father along with another person were in search of the unknown person, he crossed their path and, on seeing them, he immediately took to heels, when he was intercepted and taken to the police station.

3. The complainant identified the applicant as the unknown person, who forced himself upon him and sexually ravaged. On medical examination, the doctor opined that there are no sign of use of force, however, sexual violence cannot be ruled out.

4. Learned counsel for the applicant would submit that the narration in the complaint is a complete imagination as the manner in which the sexual assault is alleged to have been committed cannot be committed at all. He would submit that he has been

falsely implicated on account of the fact that he is a social reformer and was in the habit of raising issues about the SRA projects and, therefore, some disgruntled elements falsely implicated him.

5. I do not find substance in the said argument, at this stage. There is no reason why a young boy of 19 years, will specifically name the present applicant as the person who has sexually assaulted him. No reason is coming forward to establish that a specific ground prompted the complainant or his father to lodge a false complaint against the applicant.

6. Another factor which deters me from releasing him on bail is his antecedents. The applicant is charge-sheeted twice for offence under Section 302 of the IPC, in the year 2001 and 2014. Two offences are registered against him under Section 385 of the IPC in the year 2011 and 2014 and two crimes accuse him of offence under Section 354-A of the IPC being registered in the years 2015 and 2016. Though learned counsel for the applicant vehemently submits that the applicant has been acquitted in one of the cases, where he was charged with murder, mere acquittal in one case, fails to impress me and, taking into account the fact that while releasing a person on bail in case invoking Section 439 of the Cr.P.C., the gravity of the offence along with the antecedents, is one of the facts which deserves to be considered. In the wake of the history of the crimes registered against the

applicant, I do not deem it fit to exercise my discretion to release the applicant. Hence, the application is rejected.

[SMT. BHARATI DANGRE, J.]