

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3682 OF 2021

Maloji Dhanji Darade

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Atul Patil for the Applicant.

Mr.R.M. Pethe, APP for the Respondent-State.

Mr.S.S. Gavali, HCL, Vairag Police Station.

CORAM : C.V. BHADANG, J.

DATE : 28 MARCH 2022

P.C.

. The Applicant, apprehending arrest, in connection with the investigation of Crime No.341 of 2021 registered with Vairag Police Station, under Section 376-D, 324 and 506 of Indian Penal Code, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of complaint dated 24 June 2021 lodged by the victim, who is a lady aged about 35 years. The husband of the informant had committed suicide by hanging, in respect of which an offence was registered against the informant and others under Section 306 of IPC which trial is stated to be pending.

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3. The Applicant happens to be the nephew of the informant. The allegation is that on 24 June 2021 after 5.30 p.m. when the informant was coming back from her field, the Applicant and the co-accused Shahu Darade took the informant in the sugarcane crop and took turns to sexually abuse the informant. It may be mentioned that Shahu Darade happens to be the brother-in-law of the informant.

4. In this case Sahu Darade has been released on bail by the learned Sessions Judge, presumably on the basis of the certificate dated 1 July 2021 produced by the prosecution by which the medical officer has certified that Sahu Darade was suffering from erectile dysfunction, and was unable to perform sexual activity. The learned Sessions Judge has however refused to release the Applicant on bail.

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

6. It is submitted by the learned counsel for the Applicant that the informant has falsely implicated the Applicant, on account of previous enmity, as there are revenue cases pending between the parties. He submitted that the Applicant and Sahu Darade were also annoyed by the fact that Bhalchandra Darade brother of the Sahu Darade and the husband of the informant

had committed suicide. He submitted that the complaint is found to be *prima facie* false as Sahu Darade was found to be unable to perform sexual activity.

7. The learned Additional Public Prosecutor has submitted that the medical examination of the informant has shown injuries on the back which would be commensurate with the allegation of the informant, being taken in the sugarcane crop, after which she was sexually abused.

8. I have considered the submissions made. It is true that the co-accused Sahu Darade has been released on bail, on the basis of the medical certificate which showed that he was incapacitated for the sexual activity. However, that may not strictly be relevant at this stage while considering the Application for bail of the present Applicant.

9. It is necessary to note that the principal of falsus in uno, falsus in omnibus is not applicable in India. It can *prima facie* be seen that the nature of the injuries sustained by the informant on her back would be commensurate with the nature of the assault. There is also evidence of the son of the informant which shows that his mother had stayed back in the field and while returning home in the evening the incident happened. I

find that no case for grant of bail is made out. The Criminal Application is rejected. The trial is expedited.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

C.V. BHADANG, J.