

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2167 OF 2022

Dilip Dattatray Gongane ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Niranjan Bhavke instructed by Bhavake and Associates for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

.....

CORAM : N.R. BORKAR, J.

DATED : 3 MAY 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. I have heard the learned Counsel for the applicant and the learned APP for the State.

3. According to the victim in January 2021 and thereafter, on several occasions, the present applicant committed forcible sexual intercourse with her.

4. On 20 October 2022, this Court passed the following order :

“This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No. 278 of 2021 registered at Radhanagri Police Station for the offence punishable under Sections 376(2)(N) and 506 of Indian Penal Code.

3. *The learned counsel for the applicant submits that applicant is ready to marry the prosecutrix subject to result of DNA test of a child born to the prosecutrix out of alleged relationship. As the applicant is in jail, the learned counsel for the applicant has tendered the affidavit of the father of the present applicant to that effect. Putting such condition is nothing but suspecting the character of the prosecutrix, however, I do not wish to go into it at this stage.*

4. *As the applicant has shown his willingness to marry the prosecutrix, it would be appropriate to keep the present application pending till the receipt of DNA report and to release the applicant on interim bail.*

5. *Till next date the applicant is released on interim bail in Crime No. 278 of 2021 registered at Radhanagri Police Station for the offence punishable under Sections 376(2)(N) and 506 of Indian Penal Code, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.*

6. *The learned APP submits that the DNA test report is awaited. The concerned authority shall submit DNA test as early as possible and in any event within three months from the date of receipt of copy of this order. The Investigating Officer shall forward the copy of this order to the concerned authority.*

7. *List the application for further consideration on 6 February 2023."*

5. The learned APP on instructions submits that the victim is not willing to marry with the present applicant.

6. Prima-facie, the alleged act appears to be consensual. Considering the overall facts and circumstances of the case, the interim bail granted to the applicant by order dated 20 October 2022 is hereby confirmed. The bail application is disposed of.

(N.R. BORKAR, J.)