



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.834 OF 2023

1. MOHAMMAD SHAHNAWAZODDIN
ALIAS MOHAMMAD SHAHNAWAZODDIN
SARVARUDDIN KHAN

2. MOHD. SHARIFNAWAZ KHAN
VS.

..APPLICANTS

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Rahul Walvekar for the applicants.
Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 23, 2023.

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 376-D read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered vide C.R. No.1028 of 2022 with Kondhwa Police Station.

3. The applicants were arrested on 13.10.2022. The applicants are accused Nos.2 and 3. In all there are three accused. The first informant alleged that she was staying in her room along with the present applicants. The other

co-accused No.1 Rakesh Adhav was also staying along with them. On 09.10.2022 a party took place at her residence. It is alleged by the victim that one of the accused sprayed some substance while she was asleep. Whereafter she became unconscious. When the victim regained consciousness on 11.10.2022 realised that she has been raped.

4. Learned counsel for the applicants submitted that in the FIR it is mentioned that one of the three accused raped the victim. It is submitted that the perpetrator is not named specifically. In the statement recorded on 03.11.2022 under Section 164 of the Code of Criminal Procedure (hereafter "the Cr.P.C.", for short) it has been stated by the victim that she heard the conversation between three accused that they raped her and she did not even realise this. The statement of the witnesses at page 60 and 61 reveals the presence of the present applicants in the flat on 09.10.2022 and 10.10.2022. On record is also the call detail records and SDR location that the applicants were present. The medical evidence supports the case of the prosecution.

5. Having regard to the version in the FIR, statement under Section 164 of the Cr.P.C., the medical evidence on record and the CDR and SDR location details, I do not think it is a fit case where the applicants can be enlarged on bail. The accusations are serious.

6. The bail application is rejected.

7. A request is made for expedite the trial. The applicants may apply to the trial Court for expediting the trial. The trial Court may take into consideration the pendency of trials while granting priority. The trial Court will obviously bear in mind that the applicants are in custody.

(M. S. KARNIK, J.)