



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

BAIL APPLICATION NO. 2354 OF 2023

JITU DATTU BHORE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Bhavesh V. Magam a/w Mr. Aniruddha Kulkarni, for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

Mr. A.S. Pawar, Khadakpada police station present.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 9, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under sections 376, 328 read with 34 of the Indian Penal Code, 1860 registered on 22/11/2021 vide C.R. No. 352 of 2021 with Khadakpada police station. The applicant was arrested on 22/11/2021.
3. The statement of the prosecutrix was recorded on 22/11/2021. In the FIR it is stated that in the month of June 2021, the applicant was in need of money and therefore after consulting with her husband, the prosecutrix gave him

Rs.30,000/-. The applicant for security of the amount, offered his auto-rikshaw which the husband of the prosecutrix was plying. The applicant did not pay the installments of loan of auto-rikshaw, therefore, the finance company seized the auto-rikshaw. In the meantime, the husband of the prosecutrix died. The prosecutrix then demanded the amount which the applicant had taken from her. On the pretext that the applicant will return the amount, the prosecutrix was called by the applicant somewhere near Shahad bridge. Thereafter the allegation is that the applicant and accused offered the prosecutrix a drink as a result of which she felt giddy. Later on she realised that the prosecutrix had been raped.

4. Learned APP opposed the application and submitted that the offence is serious and there are statements of the witnesses to indicate that the applicant committed the aforesaid offence. Learned APP submitted that section 164 statement of the victim and CCTV footage supports the case of the prosecutrix.

5. The applicant was arrested on 22/11/2021 and is in custody almost for 2 years. The trial is likely to take a long

time to conclude. My attention is invited to the affidavit dated 11/05/2022 filed by the prosecutrix before the trial Court in which it is stated that the name of the applicant was mentioned in the offence due to some misunderstanding.

6. In the facts and circumstances of the present case, considering that the applicant is in custody for 2 years with no possibility of trial concluding any time soon, the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. Further custody only will be by way of a pre-trial punishment in the facts and circumstance of the case. The applicant will face the consequences post-trial if found guilty. I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Jitu Dattu Bhore in connection with C.R. No.352 of 2021 registered with Khadakpada police station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(g) The applicant shall not enter where the area where the prosecutrix is residing after being released on bail, till the trial concludes. The applicant shall not contact the victim.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The application is disposed of.

(M. S. KARNIK, J.)