

Ashwini V

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

BAIL APPLICATION NO. 3772 OF 2022

Amit Suryakant Zendekar	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Ritesh M. Thobde with Changdev S. Shingade, i/b
Mr. Sagar S. Tambe, for Applicant.

Mrs. Veera Shinde, APP, for Respondent-State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 28, 2023

PC.:

1. This is an Application filed under Section 439 of the Criminal Procedure Code, 1973 ("Cr.PC.") seeking release of Applicant on bail in connection with Crime No. 170 of 2022 registered with Malegaon Chavvani Police Station, District Nashik Rural, for offences punishable under Sections 376, 376(2)(n), 366, 363, 368, r/w 34 and 201 of the Indian Penal Code and under Section 67(A) of Information Technology Act, 2000.

2. According to prosecution, victim's husband filed a missing report on 25th July 2022. On 1st September 2022, her sister-in-law received a call of victim stating that she is in trouble and she needs to be taken from the spot of incident. The victim was accompanied by one person who fled from the spot after noticing relatives of

victim. On 2nd September 2022, she recorded her statement alleging that the Applicant contacted the victim through “sharechat” application portraying himself as a woman. He got few photographs on the mobile and under the threat of making said photographs viral, the victim was called at Malegaon and was forced to sit in the car. She was taken to various districts and by administering intoxicating substance, she was raped by the Applicant.

3. The Investigating Agency recorded statement of witnesses and also recorded statement of victim under Section 164 of Cr.P.C. and filed charge-sheet.

4. The Applicant applied for bail under Section 439 before the Additional Sessions Judge, Malegaon, which came to be rejected by an order dated 15th November 2022.

5. I have perused the charge-sheet and material on record. The charge-sheet contains an Affidavit allegedly sworn by the victim along with her statement that she went on her own, with the Applicant. The charge-sheet also contains statement of an Advocate who identified the victim before Notary stating that the said Affidavit was notarized as per the instructions of the victim. Apart from aforesaid material, it appears that the victim has stated that she has destroyed her cellphone. She was accompanying the Applicant from 25th July 2022 to 2nd September 2022. The material on record indicates that the Applicant and the victim stayed in various Hotels and Aashrams in various districts including Baramati, Sangola, Alandi, Admapur. At this *prima facie*

stage, aforesaid material creates reasonable doubt about the case of prosecution. The Applicant has made out a *prima facie* case for relief under Section 439 of Cr.P.C. Hence, following order:

- i) The applicant, namely, Amit Suryakant Zendekar, shall be released on bail in connection with Crime No. 170 of 2022 registered with Malegaon Chavvani Police Station, District Nashik Rural, for offences punishable under Sections 376, 376(2)(n), 366, 363, 368, r/w 34 and 201 of the Indian Penal Code and under Section 67(A) of Information Technology Act, 2000 on furnishing P.R. Bond in the amount of Rs. 50,000/- with one or two sureties in the like amount to the satisfaction of the investigating officer;
- ii) The applicant shall provide his recent self-attested photograph at the time of executing P.R. Bond;
- ii) The applicant shall remain present before the concerned police station on first Saturday of each month between 11.00 am to 2.00 pm, till the conclusion of trial;
- iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- iv) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

6. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)