

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3784 OF 2022**

Jitendrdasingh Devrajsingh GautamApplicant

Versus

The State of Maharashtra ...Respondent

Mr.Umesh Chikane h/f Mr. Raviraj Paramane, Advocate for the Applicant.

Mr.Y.Y. Dabke, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th SEPTEMBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. I-483-2021 registered with APMC Police Station, Navi Mumbai, for offences punishable under Sections 376, 323, 504 and 506 of Indian Penal Code (for short "the IPC").

2. It is the prosecution's case that on 30th December, 2021 at around 9.00 p.m. the informant was returning home from her work. At that time, when she reached near Kopari Bridge at Sector-26, the applicant came from backside and put his hand on her shoulder and pulled her towards the cremation ground and took her into a small

room and sexually assaulted her. Thereafter, the informant shouted for help and two persons came on the spot with police. They caught the applicant. Then the first informant lodged complaint against the applicant.

3. It is the contention of learned counsel for applicant that the said sexual intercourse was consensual. The victim was 21 year old. As the police caught her red-handed with the applicant, she has filed the complaint against the applicant. Learned counsel further submitted that in statement under Section 164 of Cr.PC., the victim has stated that the said sexual assault was done by unknown person and in the said statement, she has stated that she had lodged complaint against unknown person, but in FIR she has stated name of applicant. Investigation is completed and charge-sheet has been filed. Applicant is behind bar for more that one year and eight months. Hence requested to allow the application.

4. Learned APP submitted that the victim was forcibly taken by the applicant when she was returning to home, applicant sexually assaulted her by threatening her. Applicant was caught red-handed by police. If applicant is released on bail, he may threaten the victim and the prosecution witnesses and he may abscond. Hence,

requested to reject the application.

5. I have heard both learned counsel. Perused the F.I.R. and charge-sheet. Victim lodged FIR on 31st December 2021 and in the F.I.R., she has stated the name of applicant as a person who sexually assaulted her. Her statement under Section 164 of Cr.PC. is recorded on 1st January 2022. In the said statement, she has stated that one unknown person had sexually assaulted her and she did not know the name of the said unknown person and she has lodged report against unknown person in respect of the sexual assault on her. The victim is 21 year old. On earlier date of recording statement under Section 161 of Cr.PC., she had lodged a complaint against applicant. On the next day, she stated that it was committed by unknown person. Applicant is behind bar for more than one year, investigation is completed, charge-sheet has been filed. In view of the above fact, no more detention of applicant is required.

6. In view of above, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No. I-483-2021 registered with APMC Police Station, Navi Mumbai, on executing P.R.Bond in the sum of Rs.25,000/- with one or

two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)