



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 BAIL APPLICATION NO. 2280 OF 2023

Sunil Kashinath Shendge
VERSUS
The State of Maharashtra

...
Advocate for Applicant : Mr. N.S. Ghanekar h/f Mr. Dhanraj S. Ingole
APP for Respondent: Mr. Mukesh K. Goyanka
Advocate to assist the A.P.P. : Mr. Sachin S. Panale
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 18th JANUARY, 2024.

PER COURT :-

1. This is an application for bail under section 439 of Cr.P.C. in connection with crime No. 0455 of 2023 registered with Belwandi police station, District Ahmednagar for the offences punishable under Sections 376, 376(2) (N), 342 and 506 of I.P.C. His application with similar prayer bearing criminal bail M.A. No. 727 of 2023 came to be rejected by the learned Additional Sessions Judge, Shrigonda, vide order dated 01.12.2023.

2. The informant, who is 23 years old married woman, lodged a report with Belwandi police station, alleging that the applicant is her brother in law and all they were residing under one roof. Her husband was admitted in the hospital at Ahmednagar for treatment of brain tumor. On 1.9.2023, in the morning, she went to the river adjacent to her village for washing the clothes. The applicant went

there and convinced her that they both have to go to the hospital, where her husband was admitted. She kept all clothes there and proceeded with him on his motor cycle. They went to Pune viz Nagar, Shirur and Wagholi. He convinced her that some amount is to be paid in the hospital and compelled her to give her Mangalsuta to the goldsmith. The Mangalsutra on the person of informant was sold there and an amount of Rs.20,000/- was received by the applicant. Thereafter, they had taken tea. She fell giddiness. She sat on his motor cycle and at about 5.00 p.m. they went at one room. The prosecutrix asked him as to where is her husband. He advised her to become calm as her husband is admitted in the hospital and on the next day, they will meet to her husband in the hospital. Then the applicant brought a Wadapav. She ate that, she fell giddiness. She slept. The applicant then removed her clothes and told her that he is loving with her and therefore, he has brought her there and then he committed sexual intercourse with her by threatening to kill her. He repeated that act from 2.9.2023 to 5.9.2023, continuously. During that period, the applicant used to lock the door of the room and keep her in that room and used to come from outside with some articles i.e. clothes etc.. The prosecutrix was insisting him to take her to her husband, but he used to say that he is her husband now. On 5.9.2023, at about 12.00 night, the police came there, at that time the applicant told her that to tell the police that she came on her own without any pressure. She accordingly told that fact to the police. The prosecutrix was handed over to her parents. After reaching to her

parents house, she told entire incident to them and therefore, report was lodged on 6.9.2023.

3. Learned advocate for the applicant submitted that it is a case of consensual sexual relationship between the applicant and the prosecutrix. He pointed out that in the missing report, lodged about missing of prosecutrix, different fact is mentioned that she went with clothes. He further pointed out report of medical examination in which she has not alleged that there was sexual assault. Learned advocate for the applicant submitted that the statement of goldsmith also clarifies that the applicant gave Mangalsuta and he paid that amount. At that time also, it was possible for the prosecutrix to raise objection. It is lastly prayed to allow the application.

4. Heard learned A.P.P. for the respondent-State and Mr. Panale, learned advocate to assist the A.P.P.. They have strongly opposed the application. They pointed out that some chloroform substance was administered to the prosecutrix in the tea and therefore, she become unconscious and thereafter the applicant took her to Pune and there he continuously committed rape on her. Considering all these aspects, it is lastly prayed to reject the application.

5. It is an admitted fact that after the incident, on 01.10.2023, the prosecutrix has committed suicide. The report shows that though she was travelled by motor cycle with the applicant, she did not raise

hue and cry. She was residing with the applicant at Pune from 02.09.2023 to 05.09.2023, she did not raise shouts or took help of any neighbourer or landlord. All these facts lead to the prima facie inference that there was consensual sexual relations between the applicant and the prosecutrix. The investigation is over. The charge sheet is filed. The applicant has roots in the society. The trial would take a long period. Considering all these aspects, the application deserves to be allowed. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 0455 of 2023 registered with Belwandi police station, District Ahmednagar for the offences punishable under Sections 376, 376(2) (N), 342, 506 of I.P.C. be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses, in any manner.

(SANJAY A. DESHMUKH, J.)