

Order below Exh.1 in Cri. Bail Application No. 357/ 2022

Rajendra Dipak Gangurde

... Applicant
Accused.

Vs.

The State of Maharashtra
through PI Wani Police St.
(Cr. No. I 502/2021)

.. Respondent.

Order below Exh. 1

1. This application has been filed by the applicant/accused under section **439 of Cr.P.C.** for releasing him on **regular bail** in Crime. No.I 502/2021 registered at Wani Police Station for the offences punishable under sections 376-D, 392, 323 r/w. 34 of the Indian Penal Code.

2. According to the prosecution case, the FIR has been lodged on 28.10.2021 by the victim-complainant alleging therein that on 27.10.2021 around 09.30 to 09.45 pm, she had gone to medical shop to bring medicines owing to pain in her tooth. After purchasing medicines, she was on her way back to home. When she reached near Bus-stand, she went to answer the nature's call. Accused No.1 and 2 were sitting at the Bus-stand. They followed the victim, gagged her mouth, snatched her mobile, removed her clothes forcefully and committed rape on her. Thereafter, accused No.3 and 4 reached on the spot and they repeated the sexual act on the Victim. As there were no clothes on the person of the victim, she hide herself and

anyhow managed to reach her house. She narrated the entire incident to her son. Thereafter they went to the Police Station and lodged report.

3. The ld. Counsel Shri B. D. Dange appearing for the applicant has submitted that the applicant is innocent and has not committed any sexual act as alleged by the complainant. He has been falsely implicated in this case. On the day of incident, co-accused came to his house and took his motorcycle with them. It was holiday for him and so through out day, he was at home. He came out of the house after 6 p.m. He along with co-accused then went near Wani bus stand to eat Chinese Rice. When they were having rice, the co-accused persons left the place informing the applicant that they will return soon. But they didn't return for long time. So he went near the bus stand to trace his friends. He found his motorcycle there but his friends were not there. By that time, police reached on the spot and held him. Till that moment, he was not aware what for police arrested him. So he has no role to play in the alleged offence. His custodial interrogation is already over. The charge-sheet is filed and therefore, his further detention is not necessary. Hence, the ld. Counsel for applicant prays for release of applicant on regular bail.

4. The investigating Officer has filed his reply at Exh.4 and strongly opposed the application on the ground that offence is serious in nature. There are sufficient evidence to show involvement of the applicant in committing the rape on the Victim. She has identified all the accused persons. Police have also collected CCTV footage wherein it is shown that accused persons have purchased the liquor and were

also identified by the shop owner. Considering the nature of offence, the applicant is not entitled for bail. Hence, prayed for rejection of the application.

The ld. APP Smt. Reshma Jadhav has strongly opposed the application and prayed for rejection of the application. She has stated that accused persons have committed gang rape on the victim. They all were under the influence of liquor. The medical report (drawings) are showing injuries on the hand and back of the victim. The concerned IO has collected sufficient evidence against the applicant. Hence prayed for rejection of the application.

The complainant appeared before the Court and filed her say at Exh.5 and strongly opposed the application. She submitted that the relatives of accused are trying to pressurize her and also threatened her of dire consequences. Hence, she prayed that application be rejected.

5. After hearing both the sides and going through the charge-sheet, it appears that victim was examined within 24 hours of the occurrence of the offence. The Medical Officer, on examination of the victim, found various injuries on her body such as Abrasion 1 x 1 cm on right elbow joint, Abrasion 1 x 1 cm on back, fourchette stretched and multiple hymenal tear present at 2, 3, 6, 7, 9 "O" clock position. The injuries prima facie shows that she was sexually assaulted. Further the ld. Defence counsel has tried to falsify the statement of the Victim by saying that victim had already informed one of the witnesses namely Gangubai Ratan Wadikar that she was not in good terms with her husband and so, she is going to meet one Dattatray

Kadale in the night hours near Bus-stand. The Id. Counsel says that it is Dattatray Kadale who committed rape on the victim and as Dattatray Kadale is not in good terms with accused persons, he implicated them in the false case. As far as this contention is concerned, it does not inspire confidence rather it gives confirmation of the fact that victim was on the spot at the relevant time of incident. There is no reason for the victim to state false against the applicant and co-accused persons. Further, the applicant has not pointed out any inimical terms between them and the Victim which would give opportunity to the victim to implicate them in the false case. The offence is serious in nature. The applicant and co-accused have ravished the victim and spoiled her future prospects. It was a permanent stigma on her life. Further the punishment prescribed for the offence is 20 years. Considering the nature and gravity of the offence, application deserves to be rejected. Hence, following order.

ORDER

Application stands rejected.

(**Smt. S.S. Nair**)

Date : 04.04.2022.

Addl. Sessions Judge -4, Nashik.