

MHST010028662022



Presented on : 07.10.2022
Decided on : 20.12.2022
Duration : Ys. Ms. Ds.
00 02 13

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE, SATARA
AT SATARA**

(Presided over by S.R. Salkute, Additional Sessions Judge, Satara)

Criminal Bail Application No. 728 of 2022

(CNR – MHST01-002866-2022)

Sanjay Aabaji Jadhav.
Age : 50 yrs. Occup.: Agriculture,
R/o.: Khodad, Tal. Dist. Satara.

...Applicant

Versus

1] The State of Maharashtra,
Through Police Inspector,
Borgaon Police Station
Tal. Dist. Satara.

... Opponent

2] Uma Somnath Pawar.
Age : 32 yrs., Occup. : Labour,
R/o. Nisrale, Tal. Dist. : Satara.

...Ori. Complainant

Appearance :

APP for State : Shri. M. H. Oak.
Advocate for accused : Shri. V. V. Kakade.

(Application under Section 439 of the Code of Criminal Procedure, 1973)

ORDER BELOW EXH.1
(Passed on 20th December, 2022)

1] This is an application moved by applicant/accused **Sanjay Aabaji Jadhav** under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in C.R.No. 201/2022 for the offences punishable under Sections 376 (2)(j)(1) of the Indian Penal Code, 1860 (In short, "IPC") and Section 3(1)(w)(i), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (In short, "SC/ST Atrocity Act) registered with Borgaon Police Station, Satara.

Grounds for bail :

2] He alleged that he was arrested on 18.09.2022 and since 22.09.2022, he is under MCR. He alleged that there is not role played by him and at the time of incident ,the victim was mentally ill. It is alleged that FIR was lodged by the relative of victim after six months due to political pressure. It is also alleged that the investigation is completed and there is no prima facie case. He alleged that he will abide by the conditions of the Court.

Reply by APP :

3] At Exh. 5, the learned APP for State of Maharashtra filed reply and strongly opposed on the ground that the alleged

offence took place at village Khodad. In the month of April, 2022 at 3.00 p.m. the applicant committed rape on the sister-in-law of the complainant. The victim is mentally retarded and she was carrying pregnancy of five months. The report is lodged against both accused. He contended that the offence is serious.

Reply by I.O. :

4] The Investigating Officer has filed reply that the accused were aware that the victim is mentally ill but still they committed the rape in the field of sugarcane. He contended that the accused may tamper with the witnesses of prosecution.

Notice was sent to informant - but absent.

Reasons :

5] The application is pending since October, 2022. When called continuously, the applicant was absent and lastly on 09.12.2022, the application is heard.

6] It is submitted for applicant that the victim was married. The charge-sheet is filed and there is no case against the accused. He relied on the judgment in case of ***Santosh Ramchandra Nikam Vs. State of Mahabharata reported in 2010 ALL MR (Cri.) 693.***

In the case in hand, the victim identified to both accused and she stated that the rape is committed as the accused dragged her into the field of sugarcane. She clearly stated that firstly, the accused Anil who came with motorcycle committed rape and thereafter when she was returning to her home at that time the accused Sanjay committed rape. The Investigating Officer has collected the caste certificates. The spot panchanama was prepared for both spots of incident. The medical certificates, Medico Legal examination report of sexual violence is collected. From the perusal of record, it reveals that the victim was already married but due to the said incident, she was found pregnant to 20 to 22 weeks and there was no injury all over her body. The Doctor gave opinion that the patient is pregnant and sexually harassed is definitely there and opinion is given for termination of pregnancy. The clothes were seized and the Forensic material were sent to the Forensic Laboratory. The statement of the victim Rani was recorded before the Judicial Magistrate First Class, Satara wherein she has narrated the fact of committing rape firstly by Anil and then by Sanjay. The statement of "Uma" who is informant was also recorded before the Judicial Magistrate First Class, Satara wherein she narrated the fact as per the FIR. For DNA purpose, the samples were sent to the Forensic Laboratory. The mental test of victim was also carried out. The statement of witnesses were recorded. Thus, it clearly appears that there is a serious accusation in the FIR as well as in the statement recorded before the Judicial Magistrate First

Class, Satara. The investigation is completed, entire samples are sent to Forensic Laboratory. Considering the residence of the victim, it appears that there is possibility of tampering of the witnesses more particularly "victim" by the accused if he is released on bail. Hence, I am not inclined to grant bail and proceed to pass the following order.

ORDER

The Criminal Bail Application No.728 of 2022 moved by applicant/accused **Sanjay Aabaji Jadhav** in connection with Crime Regi. No. 201 of 2022 registered with Borgaon Police Station, Tal. Dist. Satara for the offence punishable under Sections 376 (2)(j)(1) of the Indian Penal Code, 1860 and Section 3(1)(w)(i), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hereby rejected.

Satara.

Date : 20.12.2022.

**(Sanjay R. Salkute)
Special (Atrocity) Judge and
Addl. Sessions Judge, Satara.**

CERTIFICATE

I confirmed that the contents of PDF file judgment/order are same word to word as per original judgment/order.

Name of Stenographer	Smt. Tanuja S. Bagal. Stenographer(Grade-I)
Name of Presiding Officer	Shri. Sanjay R. Salkute, Special (Atrocity) Judge and Addl. Sessions Judge, Satara.

Dictated On	20.12.2022
Transcribed On	20.12.2022
Checked On	20.12.2022
Signed on	20.12.2022

Satara.
Date : 20.12.2022.

(Sanjay R. Salkute)
Special (Atrocity) Judge and
Addl. Sessions Judge, Satara.