

Bombay High Court
XYZ vs The State Of Maharashtra And Anr on 9 November, 2022
Bench: N. R. Borkar

44-BA-1056-22.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1056 OF 2022
Laxman Bapurao Nagargoje ...Applicant
Versus
The State of Maharashtra ...Respondent
WITH
INTERIM APPLICATION NO. 1239 OF 2022
xyz ...Applicant
Versus
The State of Maharashtra and anr. ...Respondents
.....
Mr. Ritesh Thobde for the Applicant.
Ms. M.M. Deshmukh, APP for the State.
Mr. Ashish Sawant for Intervenor Applicant in IA/1239/2022.
.....
CORAM : N.R. BORKAR, J.

DATED : 9 NOVEMBER 2022 P.C. :-

This is application under Section 439 of Code of Criminal Procedure.

2. The applicant came to be arrested in Crime No. 574 of 2021 registered at Vairag police station for the offences punishable under Section 376 and 506 of Indian Penal Code.
3. It is the case of the prosecution that on 26.10.2021 at about 5 am in the morning the present applicant committed the rape on the MJ Jadhav 1 / 3 44-BA-1056-22.odt prosecutrix.
4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.
5. The learned counsel for the applicant submits that there is a delay of approximately one month in lodging the First Information Report. It is submitted that two days prior to the lodging of the FIR in question, the husband of the prosecutrix and her other family members, assaulted the mother of applicant and therefore report was lodged on the basis of which Crime No. 568 of 2021 was registered against the family members of the prosecutrix for the offences punishable under Sections 307, 323, 143, 147, 149, 504, 506 of Indian Penal Code. It is submitted that the possibility of false implication therefore cannot be ruled out. It is submitted that the investigation is over and charge-sheet is filed therefore further detention of applicant is not warranted.
6. On the other hand the learned APP submits that the applicant is involved in serious offence of rape. It is submitted that there is an explanation for the delay in lodging the FIR. It is submitted that considering the nature of offence the applicant may not be released on bail.

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7. The learned counsel for the applicant has placed on record the copy of the FIR lodged in Crime No. 568 of 2021. The said FIR is taken on record and marked 'X' for the purpose of identification.

8. It appears that the FIR in question came to be lodged just two days after the registration of crime against the family members of the prosecutrix for alleged assault on mother of the applicant. The possibility of false implication therefore cannot be ruled out.

9. The investigation is over. I am therefore inclined to release the applicant on bail on certain conditions. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant shall be released on bail on furnishing P.R. bond

in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall not stay at the village Hingani till conclusion of trial and shall seek permission of the trial Court, if he is required to enter the said village.

10. In view of disposal of bail application the Interim Application does not survive and the same is disposed of.

(N.R. BORKAR, J.)