

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 BAIL APPLICATION NO.1078 OF 2020

SHRI ANKUSH S/O VITTHAL JADHAV
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A. B. Khot h/f Mr. Bachate P. D.
APP for Respondent-State : Mr. A. S. Shinde.
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CORAM : V. K. JADHAV, J.
DATE : 09.12.2020

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.294 of 2020 registered with Sonpeth Police Station, District Parbhani for the offence punishable under Sections 376(2)(j)(n), 306 of the I.P.C. and Section 4, 8 of Protection of Children from Sexual Offences Act, 2012. His application with similar prayer bearing Criminal Misc. Application (Bail) No.178 of 2020 came to be rejected by the learned Additional Sessions Judge, (Special Judge), Gangakhed, District Parbhani.

2. The learned counsel for the applicant submits that, the investigation is over and the charge-sheet has been submitted in the Court. The applicant is in jail in connection with the

present crime since 23.08.2020. The applicant is a labour by occupation and he is a married person having no criminal history. The learned counsel submits that as per the complaint, on 06.06.2020, deceased Archana had consumed the poison in her own house and died in the hospital while under treatment, on the same day, at about 7.20 p.m. She was carrying the pregnancy. Initially, the informant has given his statement to the police during inquiry of the A.D. that he has no complaint against anybody. Thereafter, the informant has lodged the present complaint on suspicion against the applicant. It has been alleged in the complaint that in the month of May 2020, the applicant had been to the house of the informant and thereafter went to the house of one Arjun Uttam Chavan. It is further alleged in the complaint that two days after it, the said Arjun Chavan told to the informant that the present applicant is willing to marry with deceased Archana. The learned counsel submits that on the basis of the same, the informant has lodged the complaint against the applicant on suspicion. It has been alleged that the present applicant is responsible for the pregnancy of deceased Archana and thus deceased Archana had committed suicide on account of carrying the said

pregnancy. The learned counsel submits that the DNA report is now received and the same is also negative. The applicant is having roots in the society. He is easily available for trial. The applicant is ready to abide any condition, if imposed by this Court. The applicant may be released on bail.

3. The learned APP has strongly resisted the application on the ground that the present applicant had been to the house of the informant in the month of May and at that time, he had expressed before witness Arjun Chavan, his wish to marry deceased Archana. In view of the same, if deceased Archana had consumed the poison because of the pregnancy, *prima facie*, there is a case against the applicant to infer that he was responsible for the said pregnancy of deceased Archana. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, *prima facie* it appears that the informant has lodged the complaint against the applicant merely on suspicion. It appears that in the month of October 2019, the informant along with his family members including deceased Archana had been to the State of Karnataka and

Tamilnadu for cutting the sugarcane and at that time, several villagers from their village also accompanied them including the present applicant. All of them worked together, stayed together at various places for a period of four months. After their return, in the month of May, the informant has noticed that deceased Archana, 16 years of age, unmarried girl was carrying the pregnancy. Thus, the informant and the other family members have inquired with her several times, however, she had not disclosed the name of any person. According to the informant, in the month of May 2020, the applicant had been to their house and thereafter disclosed to witness Arjun about his wish to marry deceased Archana, the informant has drawn the inference that the present applicant is responsible for the death of his sister Archana and also responsible for her pregnancy. The learned APP has placed on record the copy of DNA report. It has opined that “the present applicant is excluded to be biological father of baby (femur bone) of Archana Vishwanath Rathod”. Thus, except the suspicion expressed by the informant there is no connecting evidence against the applicant. The applicant is a married person having no criminal history. Thus, by imposing certain

condition, I am inclined to release the applicant on bail. Hence,
I proceed to pass the following order :

ORDER

1. The application is hereby allowed.
2. The applicant ANKUSH S/O VITTHAL JADHAV in connection with Crime No.294 of 2020 registered with Sonpeth Police Station, District Parbhani for the offence punishable under Sections 376(2)(j) (n), 306 of the I.P.C. and Section 4, 8 of Protection of Children from Sexual Offences Act, 2012, be released on bail on furnishing PB. of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety of the like amount on the following condition :-
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-