

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

29 BAIL APPLICATION NO.1381 OF 2020

RAM MANOHAR RATHOD
VERSUS
STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. B V Thombre
APP for Respondent : Mr. R V Dasalkar

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CORAM : V.K. JADHAV, J.
Dated: December 01, 2020

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PER COURT :-

1. The applicant is seeking regular bail in connection with crime No.101 of 2020 registered with Deoni police station, District Latur for the offences punishable under Sections 376 (i), 506 of IPC and under section 4, 6 & 8 of the Protection of Children from Sexual Offences Act. His application bearing Cri.M.A No.126 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge-1, Udgir vide order dated 29.10.2020.

2. Learned counsel for the applicant submits that investigation is now over and charge sheet has been

submitted. The applicant is a young person, driver by occupation. There is no criminal history. Learned counsel submits that the informant/victim has lodged the complaint against one Digambar Chandrakant Shinde for having committed rape on her, however, in her statement recorded under section 164 of Criminal Procedure Code before the Magistrate on 11.6.2020 for the first time the informant/victim has made allegations against the present applicant. It has been specifically stated by the victim in her statement recorded under section 164 of Cr.P.C. before the Magistrate that she had a love affair with the applicant and that with her consent, the applicant has kept sexual relations with her. Learned counsel submits that the applicant is ready to abide the conditions. The applicant may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that the informant/victim is 15 years of age and, as such, her consent, if any, is immaterial. Learned APP submits that though the

victim has named some different person in her complaint, however, she had explained the same in her statement recorded under section 164 of Cr.P.C. before the Magistrate. According to her, she had a love affair with the present applicant and, therefore, in the complaint she has mentioned the name of some different person. Learned APP submits that the informant/victim become pregnant and the report of DNA test is positive. The applicant is the biological father of the baby. Prima facie, there is strong case against the applicant. 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, it appears that the informant has named one Digambar as a person who has committed rape on her under threats. However, after a long gap i.e. on 11.6.2020 the informant/victim for the first time has made allegations against the applicant. Furthermore, though the informant/victim is 15 years of age, however, she has

specifically stated in her statement recorded before the Magistrate under section 164 of Cr.P.C., that she was having love affair with the present applicant and they have kept sexual relations mutually. Thus, considering the nature of the allegations and since there is no criminal history, by imposing certain conditions, I am inclined to release the applicant on bail. Furthermore, in order to avoid the tampering of the prosecution evidence, it would be just and appropriate, if the entry of the applicant is restricted in the village till the conclusion of the trial. Hence the following order :-

O R D E R

- I. Application is hereby allowed.
- II. The applicant Shri Ram Manohar Rathod in connection with crime No.101 of 2020 registered with Deoni police station, District Latur for the offences punishable under Sections 376 (i), 506 of IPC and under section 4, 6 & 8 of the Protection of Children from Sexual Offences Act be released on bail on furnishing personal bond of Rs.20,000/- (Rs. Twenty Thousand) with one solvent surety of the like amount on following conditions:-

aaa/-

- a) The applicant shall not tamper with the prosecution evidence in any manner.
- b) The applicant shall not make any attempt to meet or communicate the victim in any manner till the conclusion of the trial.
- c) The applicant shall not enter within the limits of village Dhanegaon Tanda, Tq. Deoni, District Latur till the conclusion of Trial.

III. Application is disposed of.

(V.K. JADHAV, J.)

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