

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

**36 BAIL APPLICATION NO.1437 OF 2020**

1. SAYYED ARBAZ S/O. AKIL  
2. SAYYED SHAHBAAZ AKIL  
3. ASMA W/O AKIL SAYYED

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Shaikh Nayyim Shahabuddin.  
APP for Respondent-State : Mr. A. S. Shinde.

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**CORAM : V. K. JADHAV, J.**

**DATE : 21.12.2020**

**PER COURT :-**

1. The applicant is seeking regular bail in connection with Crime No.201 of 2020 registered with Paithan Police Station, District Aurangabad for the offences punishable under Sections 354, 354(A), 323 read with Section 34 of IPC and Section 8, 12 and 17 of POCSO Act. Their applications with similar prayer below Exh.5 and 12 in Special Case Child Protection No.304 of 2020 came to be rejected by the learned Special Judge (POCSO Act), Aurangabad.

2. The learned counsel for the applicants submits that the investigation is over and the charge-sheet has been submitted. The applicants are in jail in connection with the present crime

since 12.06.2020. The learned counsel submits that though the names of the applicants are mentioned in the FIR with a specific role attributed to each of them, however, none of the offence as alleged against the applicants punishable with death or imprisonment for life. The learned counsel submits that the victim at present is with her real sister Nilopher at Village Bidkin, Taluka Paithan and as such there is no possibility of tampering with the prosecution evidence. Further detention of the applicants is unwarranted and uncalled for. The applicants may be released on bail.

3. The learned APP has strongly resisted the application on the ground that applicant Nos.1 and 2 are real brothers of the victim and applicant No.3 is step mother of the victim. After the accidental death of the natural mother of the victim, her father who is also co-accused has performed the second marriage with applicant No.3 herein. The learned APP submits that there are allegations against all the applicants to the extent that applicant Nos.1 and 2 have not only outraged the modesty of the victim several times but also help their father co-accused in outraging the modesty of the victim. Even all the applicants have extended the beating to the victim as she

has refused to co-operate. The learned APP submits that on the date of incident, after the incident was over, the victim ran away from the house. She went towards the bus stand and narrated the incident to witness Shaikh Tarekh and thereafter to witness Saiyyad Abdul Khuddus. *Prima facie*, there is a strong case against the applicants. The applicants may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, though I find that the serious allegations have been made against the applicants, however, as a matter of punishment bail cannot be refused since the offence alleged to have been committed by the applicants are not punishable with death or imprisonment for life. There is no possibility of tampering with the prosecution evidence since the victim is at present residing with her real sister Nilopher at Village Bidkin, Taluka Paithan. Thus, by imposing certain conditions, I am inclined to release the applicants on bail. Hence, I proceed to pass the following order:

#### **ORDER**

1. The application is hereby allowed.

2. Applicant No.1. SAYYED ARBAZ S/O. AKIL, 2. SAYYED SHAHBAAZ AKIL and 3. ASMA W/O AKIL SAYYED in connection with Crime No.201 of 2020 registered with Paithan Police Station, District Aurangabad for the offences punishable under Sections 354, 354(A), 323 read with Section 34 of IPC and Section 8, 12 and 17 of POCSO Act, be released on bail on furnishing PB. of Rs.20,000/- (Rupees Twenty Thousand only) each with one solvent surety of the like amount each on the following conditions :-
- a] The applicants shall not tamper with the prosecution evidence in any manner.
  - b] Applicant Nos.1 and 2 shall attend the concerned police station fortnightly on Sunday between 8.00 to 11.00 a.m. for a period of three months from the date of this order.
  - c] The applicants shall not make any attempt to meet or communicate with the victim in any manner till the conclusion of the trial.
3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-