

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

935 BAIL APPLICATION NO.1463 OF 2020

GANESH NAMDEV VALSE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. More P. P.
APP for Respondent : Mr. S B Narwade
Advocate for informant : Mr. A V. Patil Indrale

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WITH
CRIMINAL APPLICATION NO.2328 OF 2020
IN BA NO.1463 OF 2020

POOJA ANGAD BADGIRE
VERSUS
GANESH NAMDEV VALSE AND ANOTHER.

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Mr A V Indrale Patil advocate for applicant.
Mr P P More advocate for respondent no.1.
Mr S B Narwade APP for respondent No.2 State.

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CORAM : V.K. JADHAV, J.
Dated : December 18, 2020

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PER COURT :-

1. Heard learned counsel for the applicant in criminal application no.2328 of 2020. For the reasons stated in the criminal application, criminal application is allowed in terms of prayer clause 'B' and disposed off accordingly.

2. The applicant is seeking regular bail in connection with Crime No.170 of 2020 registered with Gramin Police Station, Latur, District Latur for the offences punishable under sections 376 (2)(n), 313, 506, 34 of the Indian Penal Code. His application with similar prayer bearing Criminal M.A. No (Bail) No.471 of 2020 came to be rejected by the learned Additional Sessions Judge-5, vide order dated 2.12.2020.

3. Learned counsel for the applicant submits that investigation is over and charge-sheet has been submitted. The applicant is in jail in connection with the present crime since 24.9.2020. The informant is a highly qualified major girl. She is an engineer. There is inordinate delay in lodging the complaint. The informant has alleged about the first incident of sexual intercourse against her will in June 2019 and, thereafter, series of such instances at various places and times. The informant has alleged that the applicant has given her promise of job in a private company and under that promise performed sexual intercourse with her. It has

also alleged in the complaint that the applicant snapped photographs of the informant in half naked condition and by giving threats to her on the basis of those photographs, performed sexual intercourse with her. The informant has even made allegations about the pregnancy and causing mis-carriage by the applicant without her consent. It appears from the allegations made in the complaint that the informant has travelled with the applicant at Basvakalyan, State of Karnataka, for causing miscarriage and, alleged that the present applicant and co-accused took her forcibly in a car to said village Basvakalyan, State of Karnataka. Though the informant has given a specific period and also mentioned name of the hospital of the said Basvakalyan, State of Karnataka, where she was subjected to mis-carriage, however, during investigation, the investigating officer has visited said hospital, wherein no record is available to indicate that the informant was admitted there in the said hospital for causing mis-carriage. Informant has also alleged that the applicant has also given her promise of marriage

and performed sexual intercourse with her time to time. It has also alleged that the applicant has also given threats to her and performed sexual intercourse with her. The learned counsel submits that the informant has exaggerated the things by making wild allegations about performance of sexual intercourse by the applicant against her will. It appears from the allegations made in the complaint, so also on the basis of the investigation that there was consensual sexual relations. The applicant and the informant both are well qualified. The informant was knowing well about the consequences of her consensual sexual relations, if any. There is no criminal history of the applicant. The applicant is ready to abide the conditions, if imposed by this Court while releasing him on bail. The applicant may be released on bail.

4. Learned A.P.P. assisted by Advocate Mr Indrale Patil has strongly resisted the application on the ground that the informant has made severe allegations against the applicant. In the month of June 2019 the applicant

under the pretext to help the informant for shifting her luggage from her old flat to a new flat performed sexual intercourse with her against her will. Even, at that time, the applicant has snapped photographs of the informant in semi-naked condition. The learned APP submits that, though the informant has resisted, however, she was helpless. The applicant, thereafter, time to time has taken undue advantage of the helpless position of the informant, who was staying alone in Pune under the pretext of giving her a job in private company, performed sexual intercourse with her against her will. Even, the applicant has caused miscarriage of the informant without her consent. Initially, the applicant has given her certain tablets obtained by him from Medical Pharmacy, however, he took her alongwith his friend co-accused to Basvakalyan, State of Karnataka, where the informant was subjected to abortion. The applicant has also threatened the informant on the basis of the photographs snapped by him in his mobile. The applicant has also given false promise of marriage to the informant and kept sexual

relations with her. Prima facie, there is strong case against the applicant. The applicant may not be released on bail.

5. On going through the allegations made in the FIR and on perusal of the charge-sheet, it appears that the informant is a major girl. She is well qualified. She had completed her Engineering education between 2016 to 2019 from prestigious Engineering college at Pune. In the month of June 2019, her own father has given mobile number of the present applicant and asked her to call the applicant for the purpose of shifting her luggage from old flat to a new flat. According to the informant, at the following time, place and manner, the applicant has performed sexual intercourse with her against her will :-

i] In the month of June, 2019 in the flat of the informant, the applicant has expressed his love and demanded sexual relations. According to the informant, the applicant has torned clothes on her person, performed forcible sexual intercourse with her and snapped her photographs in that condition in his mobile.

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According to the informant, the applicant threatened her that he would show said photographs to her parents and, informant, therefore, has not disclosed the incident to anyone.

ii] Informant, thereafter, shifted to a new flat near Singhgarh college. According to her, the applicant has given her promise of job in a company, and, under that promise and further under the threats of showing those photographs to others, frequently performed sexual intercourse with her.

iii] In the month of October 2019 informant became pregnant. The applicant has given certain tablets to her for causing abortion. According to her the applicant has forcibly administered those tablets to her.

iv] According to the informant, the applicant alongwith other co-accused person took her forcibly to Latur in one Travel bus and, thereafter, from Latur to Basvakalyan, State of Karnataka for carrying her abortion. According to the informant, she has not disclosed the incident to anybody since the applicant has given threats to kill her.

v] In the month of November 2019 the applicant again came to Pune from her native and the applicant by giving promise of job allegedly performed sexual intercourse with her against her will till March 2020.

vii] On 21.5.2020 when the informant was at her native place, the applicant allegedly gone there and performed sexual intercourse with her against her will.

viii] Thereafter, in the month of August 2020 and September 2020 the applicant called the informant in his flat and performed sexual intercourse with her against her will.

6. If the sequence of these events is considered, it is difficult to believe that every time the informant was subjected to forcible intercourse against her will by giving false promise of job, so also by giving threats of showing said photographs to her parents. Prima facie, it appears that there was consensual sexual relations between the applicant and the informant.

7. So far as the charge under section 313 is concerned, prima facie, it is difficult to believe that under threats forcibly the informant was taken firstly in a private travel bus to Latur and, thereafter, in one car to Basvakalyan, State of Karnataka for causing her abortion. Furthermore, even though the Investigating Officer has visited the said hospital and verified record about her abortion in the said hospital at Basvakalyan, no record is available to that effect. The applicant is in jail in connection with the present crime since long. In view of the nature of the allegations as discussed above, I am inclined to release the applicant on bail, with certain conditions. Hence, following order.

O R D E R

- I. Application is hereby allowed.
- II. Applicant GANESH NAMDEV VALSE in connection with Crime No.170 of 2020 registered with Latur Gramin Police Station, Latur, District Latur for the offences punishable under sections 376 (2)(n), 313, 506, 34 of the Indian Penal Code be released on bail on furnishing P.B.of Rs.20,000/- (Rs. Twenty

Thousand) with one solvent surety of the like amount, on the following conditions :-

- a] The applicant shall not tamper with the prosecution evidence in any manner.
- b] The applicant shall not meet or communicate the victim, in any manner, till the conclusion of the trial.

III. Bail application is accordingly disposed off.

(V.K. JADHAV, J.)

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