

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

27 BAIL APPLICATION NO. 219 OF 2022

1. Tejas S/o Digambar Narwade
2. Akash S/o Digambar Narwade ... APPLICANTS

VERSUS

The State of Maharashtra ... RESPONDENT

Shri. S. J. Salunke, Advocate for the applicants
Shri. A. V. Deshmukh, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 28th February, 2022**

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No. 005 of 2022 registered with Manvat Police Station, Dist. Parbhani for the offence punishable under Sections 363, 366, 376(2)(n) read with Section 34 of the Indian Penal Code.

2. The allegations in the FIR are that on 5th January, 2022 the informant had been to her maternal aunt's place on 20th December, 2021 at village Ambegaon. On 21st December,

2021 in the afternoon applicant No. 1 Tejas had been to Ambegaon alongwith one Munja alias Akash Dhuraji Makasare by motorcycle. Both of them took the informant on the motorcycle on the false pretext that health of grandfather of the informant was not good. They did not take informant to Parbhani but they took her via Jalna Road via Selu. Applicant No.1 Tejas took the informant to his sister's house at Jalna at about 10.00 p.m. On 22nd December, 2021 they were taken by one person to Selu where applicant No. 2 Aakash joined applicant No. 1 and the informant and all of them went to Parbhani on motorcycle and stayed there in the house of Suprabha Wakale who is Anganwadi Sevika. There applicant No. 1 established physical relationship with the informant. They had physical relationship twice.

3. Heard Shri. Salunke, learned counsel for the applicants and Shri. Deshmukh, learned APP for the respondent/ State.

4. Shri. Salunke, learned counsel submits that the tenor of the FIR shows that the informant was with the applicant for almost 10 days. She did not complain to any one during this

period though she met several persons during this period. This shows that she was a consenting party for the alleged sexual relationship.

5. Learned APP Shri. Deshmukh submits that the allegations against the applicants are serious.

6. Learned counsel Shri. Salunke has placed reliance on the order passed by this Court in Anticipatory Bail Application No. 101 of 2022 in which it has been observed that the informant seems to be a consenting party for the alleged sexual intercourse. From the tenor of the FIR it shows that the applicant No. 1 and the informant were together for almost 10 days. They traveled together at various places. They met on the way many persons. However, the informant did not disclose at any time about the kidnapping and the sexual assault on her by the applicant No. 1. On the contrary on 31st December, 2021 she has given a statement that she was not kidnapped by any one and she does not have any complaint against any one. Having regard to this, I am inclined to release the applicants on bail. Applicants do not have criminal

antecedents. They are not likely to flee from justice. Hence the order.

ORDER

1. Application is allowed.
2. Applicants be released on bail on their furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 005 of 2022 under Sections 363, 366, 376(2)(n) read with Section 34 of the Indian Penal Code registered with Manvat Police Station, Dist. Parbhani, on condition that they shall not tamper the prosecution evidence.
3. Application is disposed of.
4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp