

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

BAIL APPLICATION NO.361 OF 2022

Sainath S/o Bhagaji Katkar

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) X Y Z

...RESPONDENTS

...
Mr.K.A. Ingle Advocate for Applicant.
Mr.B.V. Virdhe, A.P.P. for Respondent No.1 - State.
Mr.Dhanraj S. Ingole Advocate for Respondent No.2.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 5th MAY, 2022

ORDER :

1. The applicant has been arrested on 14th November 2021 in connection with Crime No.243 of 2021 registered with Wadod Bazar Police Station, Taluka-Phulambri, District-Aurangabad, for the offence punishable under Sections 376(1), 506 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act.

2. Heard learned Advocate Mr. Ingle for the applicant, learned APP Mr. Virdhe for respondent No.1 – State and learned Advocate Mr. Ingole for respondent No.2.

3. Informant is the mother of the victim, who is minor. It has been alleged that the minor daughter of the informant was staying with the elder sister of the informant and when informant and her husband had gone to meet the daughter on 10th October 2021, it was noticed that the victim was pregnant. Therefore the informant took her to doctor and after her medical examination it was told by the medical officer that she was pregnant. Thereafter the inquiry was made and it was revealed that present applicant had committed rape on her on 5th April 2021.

4. The investigation is complete and charge-sheet is filed. The statements of the witnesses are on the line of hear-say, in a sense that victim had told them about the incident. First Information Report has been lodged on 8th November 2021 and the statement of the victim has been recorded on 11th November 2021 and her age is shown as 14 years 3 months. She has stated that the applicant had ravished her and she had become

pregnant. Her statement under Section 164 of the Code of Criminal Procedure is on the same line.

5. In the meantime the girl appears to have delivered a child. Today, DNA Report has been produced by the learned APP, wherein it is opined that victim is the biological mother of the child, however as the applicant's genetic system did not match to the child, therefore the present applicant has been excluded to be the biological father. Whether independent to the DNA Report the offence can be proved or not, would depend upon the evidence. However, with this kind of evidence the applicant need not be asked to remain in jail. Hence the following order:-

ORDER

- i) The Application stands allowed.
- ii) The applicant – Sainath S/o Bhagaji Katkar, who has been arrested in connection with Crime No.243 of 2021 registered with Wadod Bazar Police Station, Taluka-Phulambri, District-Aurangabad, for the offence punishable under Sections 376(1), 506 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, be released on

bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.

iii) The applicant shall not visit Bormal Tanda, Taluka-Soyegaon, District-Aurangabad till the conclusion of the trial.

iv) The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

v) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI , J.]