

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

BAIL APPLICATION NO.947 OF 2022

Angad s/o Keshav Bhadade **... APPLICANT**

VERSUS

The State of Maharashtra **... RESPONDENT**

.....
Mr. Rajendrreaa Deshmukkh, Senior Counsel with
Mr. Devang R. Deshmukh, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent – State

.....

WITH

BAIL APPLICATION NO.1045 OF 2022

Sajjan Mukinda Tidke **... APPLICANT**

VERSUS

The State of Maharashtra **... RESPONDENT**

.....
Mr. S.J. Salunke, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent – State

CORAM : R. G. AVACHAT, J.

DATE : 20th SEPTEMBER, 2022.

PER COURT :

Heard. Both these Bail Applications filed under
Section 439 of the Code of Criminal Procedure are taken up

together as they arise from one and the same crime.

2. The applicants have been arrested in connection with Crime No.0107/2022, registered at Parali-Rural Police Station, District Beed for the offences punishable under Sections 376-D, 323, 452, 504 read with Section 34 of the Indian Penal Code (Charge Sheet No.70/2022 – R.C.C. No.140/2022 pending in the Court of learned Judicial Magistrate, First Class, Court No.2, Parali Vajinath).

3. The First Information Report (F.I.R.) has been lodged by the victim herself by 8.23 p.m. of 27/4/2022 in relation to the incident of gang-rape that took place on 12.00 noon the same day.

4. It is the case of the victim that, her husband left the house by 10.00 in the morning for sugarcane harvesting. She was alone home. Her both daughters were playing outside. The applicant Sajjan entered her house by 12.00 noon. He bolted the entrance door from inside. He offered her money and gold, and asked to keep sexual relationship with him. The victim claimed to have shouted at him. He, therefore, immediately opened the door and went out. In no time, again both the applicants entered her house and

committed rape of her by turn.

5. During investigation, both the victim and the applicants have been medically screened. Their blood and semen samples were obtained for chemical analysis. Statements of the persons acquainted with the facts and circumstances were recorded. On investigation, the charge sheet has been filed.

6. Mr. Deshmukkh, learned Senior Counsel for applicant in Bail Application No.947/2022 and Mr. Salunke, learned counsel for the applicant in Bail Application No.1045/2022 would submit that, in the facts and circumstances of the case, even the delay of 8 hours is gross one. That gave time to the victim and her family members to think over and then lodge a concocted F.I.R. According to them, the medical report and even the C.A. reports do not support the prosecution case. There is no C.D.R. to indicate the victim to have immediately contacted her husband on cell phone, as has been alleged. According to them, on investigation, the charge sheet has been filed and it will necessarily take time for commencement and conclusion of the trial.

7. The learned A.P.P. would, on the other hand, submit that, it is a serious offence. There was injury on the person of one of the applicant and the victim as well. He refers to the statement of the husband of the victim to support the prosecution case. He, therefore, urged for rejection of the bail applications.

8. Considered the submissions advanced. Perused the F.I.R. and the papers of investigation. True, the offence is serious one. There is delay of little over 8 hours in lodging of the F.I.R. It is stated that, the police station was at a distance of 8 Km. Before the victim was medically screened, she gave the history as below :

"माझा नवरा कामाला दहा वाजता ऊस तोडायला बाहेर गेला होता. मी घरात कपडे आवरत होते ते अचानक ऊस तोडणारे दोन लोक माझ्या घरात आले. ऊस तोडणार म्हणाले तुला मी ३० हजार तेतो. तू माझ्या सोबत राहतेस का ? मला पैसे नगं, सोनं नगं. मला सगळं हाई. . . . मग त्यांनी मला मारायची धमकी दिली मग ते माझं तोंड दाबू लागले. माझं आवाज निघाना . . . एकाने तोंड दाबलं. एकानं केलं. . . मग नंतर दुसऱ्याने तोंड दाबलं व एकानं केलं. बळजबरीने माझ्याजवळ झोपली तसं ते दोन घंटे चालले. . . ते मला घराच्या बाहेर

जाऊन देत नव्हते. . . मी बळजबरीने कवाड
काढलं . . . तोवर माझ्या घरचे आले होते. मी
घरच्यांना सांगितले असं असं झालं. मी पोलिसांना
लोकांना असं असं केले याचं सांगितलं."

9. The medical officer, on examination of the victim, did not give any opinion. She preferred to reserve the opinion pending C.A. reports. Now the C.A. reports have been received. The reports are negative, meaning thereby those do not support the prosecution. As such, it would be a case of sole testimony of the prosecutrix.

10. On investigation, charge sheet has been filed. It will necessarily take time for commencement and conclusion of the trial. In the facts and circumstances of the case, the Court is inclined to grant bail to the applicants. Hence the order :

ORDER

(i) The Bail Applications are allowed.

(ii) The applicants be released on bail in connection with Crime No.0107/2022, registered at Parali-Rural Police Station,

District Beed for the offences punishable under Sections 376-D, 323, 452, 504 read with Section 34 of the Indian Penal Code (Charge Sheet No.70/2022 – R.C.C. No.140/2022 pending in the Court of learned Judicial Magistrate, First Class, Court No.2, Parali Vaijnath) on their executing P.R. bonds in the sum of Rs.1,00,000/- (Rupees One Lakh) each with one or two sureties in the like amount by each of them.

(iii) The applicants shall not enter village Mirwat, Taluka Parali Vaijnath, District Beed till conclusion of the trial.

(iv) The applicants shall not tamper with the prosecution evidence.

(R. G. AVACHAT, J.)

fmp/-