

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

BAIL APPLICATION NO.955 OF 2022

Bhaves @ Bhaiyya s/o. Sunil Wagh

..Applicant

Vs.

The State of Maharashtra and anr.

..Respondent

Mr.U.S.Patil, Advocate for applicant

Mr.R.B.Bagul, APP for respondent nos.1 and 2

Mr.V.B.Garud, Advocate for respondent no.3

**CORAM : R.G. AVACHAT, J.
DATE : AUGUST 04, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.117 of 2022 registered with Pimpalgaon Police Station, Dist. Jalgaon/Special Case No.259 of 2022 pending in Sessions Court, Jalgaon.

2. Heard learned counsel appearing for the parties.

3. The FIR has been lodged by the informant (victim) on 14.05.2022. The informant is little over 12 years of age. It is her case that she was emotionally involved with co-accused – Dnyaneshwar.

The first part of the FIR does not pertain to any allegations against the applicant herein. The same is not, therefore, adverted to.

4. We are concerned with the incident dated 13.05.2022 that took place by 09.00 pm. According to the informant (victim), her friend – Srushti informed her to have been called by co-accused – Dnyaneshwar at a particular land. The informant, therefore, joined her to go there. The informant noticed presence of co-accused namely, Yogesh, Mangesh, Pappya, Imran and one Bhaiyya. Bhaiyya is said to be the present applicant. All these persons were sitting under a tree. Dnyaneshwar was nowhere around to be seen. The informant inquired with those present there about Dnyaneshwar and Shrushti. The informant, on hearing barking of dog, went towards an electric pole. At that place, she saw that the co-accused – Dnyaneshwar and Shrushti (informant's friend) were engaged in sexual activities. The informant, therefore, questioned Dnyaneshwar, as to why, he betrayed her. Further reading of the FIR does not attribute any overt act to the applicant herein.

5. It appears that according to the prosecution, the crime committed by the applicant was his presence at the site and nothing more. Having gone through the police papers and the investigation

so far made, it appears that nothing incriminating has been attributed to the applicant herein.

6. Learned counsel for the informant submits that only on the previous day, a supplementary statement has been recorded against the applicant, wherein she has implicated the applicant herein.

If it is so, its a statement recorded two and half months after registration of the crime. Without observing anything about relevancy of such a delayed statement, it is observed that the applicant herein, for no reason, has been arrested and detained for months. Similar is the case of some of the accused.

8. In view of the above, the Court is inclined to grant the applicant bail. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released forthwith in connection with Crime No.117 of 2022 registered with Pimpalgaon Police Station, Dist. Jalgaon/Special Case No.259 of 2022 pending in Sessions Court, Jalgaon, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

[R.G. AVACHAT, J.]

KBP