

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1162 OF 2022

Shaikh Mobin s/o. Shaikh Sultan,
Age 35 years, Occu. Labour,
R/o. Bekar Mohalla, Pathri,
Taluka Pathri, District Parbhani.

.. Applicant

Versus

1. The State of Maharashtra
Through Police Station Pathri,
District Parbhani

2. X

.. Respondents

Mr. Sudarshan J. Salunke, Advocate for Applicant

Ms. V. S. Choudhari, A.P.P. for Respondent No.1

Ms. Jayashree Ghorpade (Nawale), Advocate for Respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 15-11-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent No.1 and the learned counsel for the respondent No.2/victim.

2. The applicant is seeking bail under Section 439 of the Code of Criminal Procedure, 1973, in Crime No. 364 of 2021 registered with Police Station Pathri, District Parbhani, for the offence punishable under Sections 376(2)(f), 376(2)(k), 376(3), 354A, 354B, 506 of the Indian Penal Code, Sections 3, 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. An unfortunate case has been lodged against the father for sexual assault. The incident happened in the room in the night. Before the incident, the applicant father used to show dirty pictures to the victim daughter. Soon after the incident, the victim disclosed the incident to her mother. The applicant threatened the victim; hence, they were searching for help and two days later they lodged report.

4. The learned counsel for the applicant would submit that the mother of the victim had a maternal discord with the applicant. She was aggressive, hence, to involve the applicant in a false crime, she through the victim roped him in the alleged incident. In fact, no such incident happened. He submits that the room in which alleged incident happened was a small room and six persons were sleeping in the said room. Considering the large number of persons sleeping in a small room, it was impossible to commit the acts as alleged. Except for bare statement of the informant, there is no evidence to believe the prosecution case. The applicant is ready to abide by conditions if any imposed while granting him bail.

5. The application has been strongly opposed by the prosecution and the learned counsel for the victim. They would submit that the act of the applicant is high of immorality. The victim child is of 14 years old and no reason to make such serious

allegations against father. The matrimonial discord between husband and wife has no concerned with the alleged incident. The victim is the daughter of the accused. If the applicant would be released, he would definitely threaten to not to depose against him. The chargesheet has been filed. The prosecution is likely to be opened. The offence is serious. Hence, bail may not be granted to him.

6. The facts of the case shows that the applicant has committed the heinous offence. The arguments of learned A.P.P. and the learned counsel for the victim about apprehension of tampering prosecution witnesses cannot be ruled out. The applicant being father of victim may pressurize victim and her mother. At this juncture, the statement of the victim is suffice to believe her for the reason that no daughter can go against the father at the stake of her life. The offence is apparently serious. The applicant may be convicted. Considering the facts of the case, the applicant has no good case for bail. Hence, the application stands dismissed.

7. The legal fee of the learned counsel appointed to prosecute the cause of the victim is quantified at Rs.5000/-.

(S. G. MEHARE)
JUDGE

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