

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

906 BAIL APPLICATION NO.1224 OF 2022

**MUNJAJI @ MUNJA ASHOKRAO KAMBALE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. A.A. Lomte h/f Mr.Salunke Sudarshan J.
APP for Respondents-State : Mr. S.B.Narawade

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CORAM : S. G. MEHARE, J.

DATE : 22.11.2022.

PER COURT :

1. Heard the learned counsel for the Applicant and the learned APP for the Respondent state.

2. The Applicant has been arraigned as an accused for the offence of forceful sex committed with a woman, who was suffering from mental disability. The incident happened in the house where the victim was residing with her brother and relatives. On hearing screaming, her family members went inside her room and saw that the applicant was present there in indecent condition. He was apprehended on the spot of the incident. The victim, who was mentally unfit told her relatives by signs that the applicant had committed forceful sex with her. On the report the FIR was registered.

3. The bail has been claimed on the ground that the statement of the victim has not been recorded. The Charge-sheet has been filed. The applicant is 28 years married man having responsibility to maintain his family. No incident as such happened. The allegations are not supported with the medical evidence. No firm medical opinion is on record. The witnesses are the close relatives of each other. The applicant is the permanent resident of same village, hence there are no chances of his absconding. The trial may take its own time. Hence the applicant may be released on bail.

4. The learned APP for State has strongly opposed the application contending that the applicant has committed heinous crime with a woman who was mentally unfit. Referring to the evidence and the charge-sheet, he has vehemently argued that prima-facie material available against the applicant. Though the Statement of the victim under Section 164 of the Code of Criminal Procedure has not been recorded. It is a matter of examination during the trial. On the clothes of the victim the semen stains have been found. Considering the gravity of the offence, the application deserves to be dismissed.

5. The serious allegations have been levelled against the applicant. The victim was mentally unfit to consent. The applicant-

accused has caught hold redhanded in the house of victim herself. There are eye witnesses to the incident. The allegations are supported with the C.A. report. The offence is grave and serious. For the above reasons, this is not a fit case to grant bail. Hence the application stands dismissed.

(S. G. MEHARE)
JUDGE

mahajansb/