

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1900 OF 2022

DATTATRAY KAILAS ABAK
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Joyeb I. Shaikh
APP for Respondent No.1 : Mr. S. B. Narwade
Advocate for Respondent No.2 : Mr. V. M. Vibhute (*appointed*)
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CORAM : S. G. MEHARE, J.

DATE : 16-12-2022

PER COURT :-

1. The applicant is seeking bail in crime registered under Sections 376(2)(j)(n), 376(3), 354, 354D, 323, 506, 504 of the Indian Penal Code and Sections 5(1), 6, 8 and 17 of the Protection of Children from Sexual Offences Act.

2. The learned counsel for the applicant argued that the victim has developed the allegations of outraging modesty to committing the forceful sex. Initially, she did not complain of forceful sex, but in her supplementary statement, she made a false allegation of forceful sex. Not only this, she also added more accused making false allegations. The medical evidence does not support the allegations of forceful sex. The applicant never took her photographs without her consent and blackmailed her under the

threat of spreading those photographs to her parents. The applicant is languishing in jail from 28.08.2022. Nothing is to be recovered from him. Hence, he may be granted bail.

3. Learned A.P.P. for the State and learned counsel for victim have vehemently argued that the victim was minor below 18 years. She did not courage to make allegations of forceful sex due to fear and threats of the applicant. The applicant has come with a false story of consensual relationship. The offence is serious. Hence, the applicant is not entitled to bail.

4. Record reveals that at the initial stage the victim did not allege forceful sex. However, in a supplementary statement, she started making severe allegations and adding the accused. The witnesses stating that they saw the applicant slapping the victim appeared late before the Investigating Officer. Medical report does not support her allegations. Considering the material placed before the Court, there are ground to raise the suspicion about the allegations of forceful sex. If the first information report is considered, there were no allegations, except outraging her modesty. The report was also delayed. In such case, it raises doubt though the offence has been registered for serious crime, hence, bail may be granted.

i) Application is allowed.

ii) Applicant Dattatray s/o. Kailas Abak, be released on bail, on furnishing PB and SB of Rs.50,000/- with one or two solvent sureties of the like amount, in C.R.No.288 of 2022 (Special Case No.28 of 2022) registered with Shrirampur Taluka Police Station, District Ahmedngar, for the offence punishable under Sections 376(2)(j)(n), 376(3), 354, 354D, 323, 506, 504 of the Indian Penal Code and Sections 5(1), 6, 8 and 17 of the Protection of Children from Sexual Offences Act, on the conditions that,

- (a) He shall not contact the victim.
- (b) He shall not tamper with the prosecution witnesses.

(S. G. MEHARE)
JUDGE

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