

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

BAIL APPLICATION NO.113 OF 2023

**VIJAY PRALHAD JADHAV
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Arvind Ramnath Kawade
APP for Respondent/State : Mr. S.P. Sonpawale

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CORAM : S.G. MEHARE, J.

DATED : MARCH 21, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is an accused of the offence punishable under Section 376-D, 395, 397, 458, 120-B of Indian Penal Code read with 3(1)(ii), 3 (2), 3 (4) of Maharashtra Control of Organised Crime Act ('MCOCA Act' for short). The FIR reveals that on the day of incident, the applicant along with the co-accused entered into the house of first informant. They confined the family members in one room. One of the co-accused at the point of knife did forceful sex with the daughter of first informant. One of the co-accused attempted to kill a small girl child igniting her hand. The daughter of the first informant was raped one by one. The silver ornaments, money and mobile were stolen.

3. Learned counsel for the applicant would argue that the applicant was not involved in committing the rape. Therefore, his role cannot be compared with other co-accused. This is the first offence registered against the applicant. The applicant did not suffered any injury. He is innocent. The applicant is a sole bread winner of his family. He is languishing in jail since many months. The charge sheet has been filed. Hence, he may be released on bail.

4. Learned APP strongly opposed the application. He would argue that the applicant and co-accused have committed a heinous crime. They were so merciless and committed the gang rape with the daughter of the first informant and another lady. The applicant has been identified in test identification parade. There are ten crimes to his discredit. The offence is grave and serious. The people feels insecure due to such acts of the people like the applicant. He does not deserve bail.

5. Perused the charge sheet. *Prima facie*, the offence is heinous. The accused committed the rape with two women and also committed the dacoity. Such an act is inhuman. There is incriminating material against the applicant sufficient to believe that he was the member of the gang. Considering his antecedents, it cannot be believed that on releasing him on bail, he would not commit or likely to commit any offence while on bail. There are no reasonable grounds for believing that the applicant is not guilty for

the offence in question. Hence, Section 21 of MCOCA Act would come into play.

6. For the above reasons, the application stands dismissed. Needless to state, the observations are restricted to the bail application.

(S.G. MEHARE, J.)