

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

BAIL APPLICATION NO.272 OF 2023

**SATISH SHIVAJI FALKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. S. S. Rathi
APP for Respondent: Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. V. H. Solanke

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CORAM : S. G. MEHARE, J.

DATE : 08.03.2023

PER COURT :

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

2. The learned counsel for the applicant would submit that there is inconsistency in the statements of the victim. In the statement recorded under section 161 of the Code of Criminal Procedure she came with a story that she got acquaintance with the applicant in a train when she and her mother were going to Pune. Thereafter, father brought them back to the village Purna. On 5.9.2022 she at her own left for Pune. Her mother had lodged a missing report. She phone

called one of the co-accused. He called her to the alleged spot of the incident. Her statement under Section 161 was recorded on 14.09.2022. On the same day she was medically examined. She narrated altogether a different story before the Medical Officer without naming the applicant. In the said statement she stated that two unknown persons committed forceful sex with her. On the same day she has given two consistent statements. Again her statement under Section 164 of the Cr.PC was recorded on 23rd September 2022. The reason is best known to the prosecution why there was a long delay in recording her statement under Section 164 of the Cr.PC, where again she made allegations that on 5.9.2022 the applicant and others committed forceful sex with her. The medical report does not support her allegations. She has suffered no injury that might be possible due to ravishing by three to four persons.

3. The Court is not oblivious that in the cases where the girls of 13 years have been ravished, such cases should be viewed seriously and the accused shall not be released on bail. This is one of the criterion to be considered. In cases where there is satisfactory material, the application for bail may be considered. Therefore, considering the material placed on record, this Court is of the view that though the victim was 13 years plus, bail cannot be refused out-

rightly. The fact as discussed above reveals that the victim had made inconsistent statements as regards the allegations against the applicant. Her allegations are not supported with the medical evidence. Hence, the applicant deserves to be bail.

ORDER

- (i) The application is allowed.
- (ii) Applicant Satish Shivaji Falke be released on bail, on furnishing P. B. and S.B. of Rs. 50,000/- (Rupees Fifty Thousand only), with one solvent surety of the like amount, in Crime No. 217 of 2022, registered at Purna Police Station Taluka Purna, District Parbhani, for the offences punishable under Sections 363, 376, 376(j), 376 (d,a) of Indian Penal Code and under sections 4, 6, 7, 8, 10, 11 , 12 of Protection of Children From Sexual Offences Act on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not contact the victim and his family members in any mode or manner till conclusion of the trial.
- (iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the fees to the counsel appointed for respondent No.3 as per schedule.

(S. G. MEHARE J.)