

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

BAIL APPLICATION NO.547 OF 2023

RAMESH YEDUBA MORE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. V. S. Wakale i/b Mr. S. G. Ghongade
APP for Respondent No.1: Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. P. A. Dhakane
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CORAM : S. G. MEHARE, J.

DATE : 10.04.2023

PER COURT :

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 applicant is seeking bail in Crime No. 1111 of 2022 registered with M.I.D.C. Waluj Police Station, Taluka Gangapur, District Aurangabad for the offences punishable under Sections 376(2)(j) of Indian Penal Code and Sections 4 & 8 of Protection of Children From Sexual Offences Act 2012.

3. The learned counsel for the applicant would argue that before lodging the report against him, the family members of the victim had been to his house and unnecessarily assaulted to wife

of the applicant. The family members of the applicant had apprehension that a legal action would be taken against them as the informant's husband and two brother-in-laws assaulted the applicant under the influence of liquor in the function and that was the cause for lodging the false report. The medical evidence does not support the prosecution case. There are material contradictions in the statement of the victim under Section 164 of the Code of Criminal Procedure and history narrated to the Medical Officer. He would submit that the victim and her family members have no good terms with the applicant. Hence he has been falsely implicated.

4. The learned A.P.P. and the learned counsel for the victim have vehemently opposed the application on the ground that the victim was 16 years old at the time of the incident. The applicant did sex with her forcibly without her consent. Therefore, he may not be granted bail.

5. Perused the charge sheet. There is apparently variance in her statement under Section 164 of the Cr.P.C and the history narrated to the Medical Officer. While narrating the history there were no allegations of forcible sexual assault. The medical evidence does not support the prosecution. The spot of the incident has also been changed by the victim in the history narrated to the police and the Medical Officer. Considering the

material placed on record, the applicant appears to have good case on merit. Hence, the following order :-

ORDER

(i) The application is allowed.

(ii) Applicant Ramesh Yeduba More 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 1111 of 2022 registered with M.I.D.C. Waluj Police Station Taluka Gangapur, District Aurangabad for the offences punishable under Sections 376(2)(j) of the Indian Penal Code and Section 4,8 of Protection of Children From Sexual Offences Act, 2012 on the following conditions :

(a) The applicant shall not tamper with the prosecution witnesses.

(b) The applicant shall not contact the victim or any of the witnesses till the conclusion of the trial.

(c) He shall attend the trial on each and every effective date.

(d) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the fees to the counsel appointed for respondent No.2 as per schedule.

(S. G. MEHARE)
JUDGE