

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

927 BAIL APPLICATION NO.617 OF 2023

ANSARI MOHAMMAD SHOEB S/O. ANSARI MOHAMMAD
NIZAMUDDIN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Mohd Sharef Latif.
APP for Respondent-State : Mr. S. P. Deshmukh.
Advocate for respondent No.2 : Mr. S. B. Bhosale-Appointed.

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CORAM : S. G. MEHARE, J.
DATE : 20.04.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the victim/respondent No.2.
2. The applicant is seeking bail in Crime No.180 of 2019, registered by Police Station Cantonment, District Aurangabad, for the offences punishable under Sections 376, 363, 366 of the IPC and Sections 3 and 4 of the POCSO Act. However, he did not appear before the Court. Hence, the Court had issued N.B.W. against the accused. It could not be served. Thereafter, notices were issued to the surety. Surety also did not find.

3. Learned counsel for the applicant would submit that the applicant was not well. Hence, unable to attend the trial. He had a good reasons for his absence. That ought to have been considered.

4. Learned APP and learned counsel for the victim state that considering the conduct, the applicant may abscond forever. The trial has been commenced. Two witnesses have been examined. The victim is stuck up to her statement. Recently, she has been cross-examined. Hence, bail may not be granted.

5. The facts reveals that the applicant was married and the victim was 17 years old. Usually, the Court takes a liberal view in granting bail, if it is cancelled due to the absence of the accused. But for taking such a liberal view, the conduct of the applicant should inspire the confidence that there were good reasons for his absence restraining him from attending the case. When the applicant was produced under execution of the N.B.W., he sought cancellation of the warrant on the ground that the applicant was out of station and ill. The application was in a printed format wherein different reasons were printed and the reasons were ticked. Considering the facts the Court

pleased to dismiss the application for cancellation of NBW. Then, another Bail Application was filed.

6. Perusal of the reasons assigned by the learned Special Court rejecting the bail appears correct, proper. That apart, the trial has been commenced. The same lawyer is representing the case before the Trial Court. It is a small case of POCSO that may be completed in a short time. The Court did not find any ground to exercise the discretion in favour of the applicant. Hence, the bail application stands dismissed.

7. The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to advocate Bhosale as per the schedule.

(S. G. MEHARE, J.)

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vmk/-