

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

BAIL APPLICATION NO.647 OF 2023

DATTA @ DATTATRAYA JAGANNATH MOHITE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. G.G. Kadam
APP for Respondent: Mr. K. S. Patil
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CORAM : S. G. MEHARE, J.

DATE : 27.04.2023

PER COURT :

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondents/State.
2. The applicant is seeking bail in Crime No. 641/2022 registered with Parner Police Station District Ahmednagar for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.
3. The applicant has a case that he has been falsely implicated in the crime. He helped the victim to get an employment. He never had sex with her. However, she got pregnant. Hence, she made false allegations that he committed rape on her. The D.N.A report is negative. That supports the contention of the applicant that he has been falsely implicated.

4. The learned A.P.P. would argue that though the D.N.A report does not show that the applicant is a biological father, it does not mean that the incident did not happen. The statement of the victim is suffice to believe the allegations. The offence is serious. The victim is a widow. Therefore, the applicant may tamper with the prosecution witnesses. In such circumstances, he does not deserve bail.

5. The learned A.P.P. is correct in saying that merely not matching the DNA does not disprove the involvement of the applicant in the crime. However, for the purpose of bail, absence of DNA report against the applicant is one of the circumstances that may be considered. It appears from the record that the victim and the applicant were acquainted. However, whether the allegations inspire confidence has to be determined during the course of the trial. Considering the papers on record and circumstances of the case, the applicant deserves bail. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Datta @ Dattatraya Jagannath Mohite be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in aforementioned crime registered with aforementioned police station, on the following

conditions :-

- (a) He shall not tamper with the prosecution witnesses.
- (b) The applicant shall not enter the village Wafarewadi, Taluka Parner, District Ahmednagar where the victim reside with her children, till the conclusion of the trial.

(S. G. MEHARE)
JUDGE

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