

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.704 OF 2023

NITIN MADHUKAR PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Govind A. Kulkarni holding for
Mr. Devang Rajendrraa Deshmukh
APP for Respondent No.1 to 3 : Ms. V. N. Patil Jadhav
Advocate for Respondent No.4 : Mr. Mahesh L. Muthal holding for
Mr. S. M. Pandit, Advocate (appointed Through Legal Aid)
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CORAM : S. G. MEHARE, J.

DATE : 06-06-2023

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1 to 3/State and the learned counsel for respondent No.4/victim.
2. The applicant is seeking bail in C.R.No.0170 of 2022 registered with Nimbhora Police Station, District Jalgaon, for the offence punishable under Section 376(3) read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. The learned counsel for the applicant would argue that the

applicant is the member of a non-scheduled caste. The applicant is a married. He is agriculturist. Many times, the poor people from the village used to steal the crops from the field. Therefore, the applicant was angry with such people. That it may be a cause to implicate the applicant in a false crime. No incident as such happened. He would point out that the allegations of committing sexual assault is not supported with the medical examination report. In a statement before the medical officer, the victim has brought a new story of having no penetrative sexual assault but only touching her private part. There were no injuries on the person of the victim. The applicant did not commit any offence as alleged. The chargesheet has been filed. Hence, he may be granted bail.

4. The learned A.P.P. and the learned counsel for the victim have vehemently argued that the applicant was knowing that the victim was the member of a scheduled caste. The victim was minor. The allegations levelled against him are serious. There are two independent eye witnesses who have allegedly took the video clip of the alleged incident. The applicant is an influential person of the village. He may tamper with the prosecution witnesses. The complainant and the victim are from the poor strata of the society. They may be won over if the applicant is released on bail. They prayed to dismiss the application.

5. Perused the chargesheet.

6. Apparently, there is contradictory fact as regards the penetrative sexual assault. One of the co-accused who allegedly took the victim also member of a scheduled caste. It has been alleged against her that she insisted the victim to have a sex with the applicant. Though the allegations of penetrative sexual assault have been levelled against the applicant, the medical evidence does not support at all. There were no injuries on the person of the victim to consider the case of committing the sexual assault. The prosecution has no alleged video clips of the incident. Considering the material collected by the prosecution, the Court is of the view that keeping the applicant under trial prisoner would not be justifiable. However, to guard the apprehension of the prosecution, certain conditions may be imposed. Hence, the following order :-

i) Bail application is allowed.

ii) Applicant Nitin Madhukar Patil be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.0170 of 2022, registered with Nimbhora Police Station, District Jalgaon, for the offence punishable under Section 376(3) read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2)(v) of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on the conditions that,

- (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not contact any witnesses including co-accused till the conclusion of the trial.
 - (c) He shall attend the trial on each and every effective date.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fee to the learned counsel appointed for respondent No.4/victim as per the schedule.

(S. G. MEHARE)
JUDGE

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