

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.891 OF 2023

SHARAD WAMAN NAIKNAWARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Shashikant E. Shekade
APP for Respondent No.1/State : Mr. K. S. Patil
Advocate for Respondent No.2 : Mr. Amar V. Lavte
...

CORAM : S. G. MEHARE, J.

DATE : 22-06-2023

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/victim.
2. The applicant is seeking bail in C.R.No.190 of 2022 registered with Police Station Patoda, District Beed, for the offence punishable under Section 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.
3. The victim and the applicant are sister-in-law and brother-in-law. The incident came to the light when she had pains in the stomach and her menstruation was missed. She was taken to the

hospital and it was learnt that she was pregnant. She lodged a report on 12.10.2022 against unknown person. However, the crime was registered on 16.10.2022. Then on 20.04.2023, the police recorded her supplementary statement and she disclosed the name of the applicant as culprit. The applicant was arraigned as accused and arrested. The statement of the victim was recorded on 09.11.2022 before the learned Magistrate where also she did not disclose the name of the applicant as culprit.

4. The applicant approached this Court for bail under Section 439 of the Code of Criminal Procedure (for short, "Cr.P.C."). The victim appeared in this case. She engaged a private lawyer. She filed her reply affidavit dated 21.06.2023 and stated that due to the misconception, the name of the present applicant was taken in her subsequent supplementary statement. Name of the applicant was taken due to the pressure of the investigation machinery. Today, she again filed additional reply affidavit, stating that she had taken the name of applicant in her supplementary statement under Section 161 of the Cr.P.C. due to the fear and pressure of the investigating machinery as they abused and assaulted her and her mother by taking them in the area which was not covered under the CCTV cameras. She also sworn in that the investigating machinery slapped and forced her to take the name of either the applicant or her cousin brother. She was present in the court and admitted the contents of the affidavits.

5. The reason was best known to the Investigating Officer, why they felt it appropriate to get supplementary statement after recording her statements under Sections 161 and 164 of the Cr.P.C.

6. Believing the affidavit of the victim presented before this Court, it appears that it was the abuse of the girl by the police. The reason was best known to police why they slapped and abused her mother and the victim for disclosing the name. The affidavit sworn in by respondent No.2/victim indicates that due to the pressure, present applicant is made escape goat. The victim was already suffered the atrocities and also suffered one more atrocity at the hands of police, who were supposed to be the protector. It seems that she was told the name of the applicant under police pressure.

7. Further, believing the affidavit of the victim, the Court is of the view that it is matter of inquiry to be conducted by the Superintendent of Police, District Beed, against the concerned Police officer of Police Station Patoda, District Beed or the officers who were investigating the crime.

8. The Superintendent of Police, Beed is directed to initiate the inquiry within a month from the receipt of this order and conclude it within three months thereafter, and submit enquiry report accordingly.

9. In view of the above discussion, the Court is of the view that further detention of the applicant would serve no purpose. Hence, the order:-

- i) Bail application is allowed.
- ii) Applicant Sharad Waman Naiknaware 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.190 of 2022 registered with Police Station Patoda, District Beed, for the offence punishable under Section 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, on the conditions that,
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend the police station as and when called by the Investigating Officer on written notice till filing the chargesheet.
 - (c) The Investigating Officer is directed not to threat / pressure or beat the applicant if he appears before him as per the notice as directed above.
- iii) The copy of this order be forwarded to the Superintendent of Police, Beed.

**(S. G. MEHARE)
JUDGE**