

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

BAIL APPLICATION NO.999 OF 2023

GOVIND NEMINATH SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Senior counsel Mr. V.D. Sapkal i/b Mr. S. R.
Sapkal

APP for Respondent No.1: Mr. S. B. Narwade
Advocate for respondent No.2 : Sayali Tekale
(appointed Through Legal Aid)

....

CORAM : S. G. MEHARE, J.

DATE : 04.07.2023

PER COURT :

1. Heard the learned senior counsel for the applicant, the learned A.P.P. for the respondents/State and the learned counsel for respondent No.2/victim .
2. The applicant is seeking bail in Crime No. 174 of 2022 registered with Kannad (Rural) Police Station, Aurangabad for the offences punishable under Sections 376, 376(D), 354 354(A), 354(D), 452, 506 read with Section 34 of the Indian Penal Code and under Sections 4,8, 12 of the Protection of Children From Sexual Offences Act, 2012 and under section 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 2015.

3. The learned senior counsel for the applicant has read over the statements of the relevant witnesses, the statement of the father and the field owner where on the alleged date of lodging of the report the victim was working. He also pointed out that the brother of the victim drunk with one of the co-accused and under the influence of the liquor he told that the persons named in the F.I.R were enjoying with the victim. He also referred to the medical examination report and would submit that the medical report does not support the allegations. That apart, the father even did not make complaint of sexual harassment to his daughter at the hands of the applicant. In view of the fact and the material collected by the prosecution he may be granted bail.

4. The learned counsel for the victim and the learned A.P.P. strongly opposed the application. The learned counsel for the victim would argue that the victim is from the backward class of the society and the applicant is influential person. The incident happened was correctly narrated. She is consistent in her statement about the role attributed to the applicant. Forcible sex was done with her without her consent. Since there was delay in the medical examination there may not be evidence but the statement of the victim cannot be thrown at the threshold. It is an offence of gang rape. The victim may be

threatened. She was from the poor family and a minor. Since the offence is serious and grave, the applicant may not be granted bail.

5. Perused the charge sheet. There appears material on record that immediately after quarrel between one of the co-accused and brother of the victim, the victim was enquired about so called sexual relationship, when she was working in the field. However, she states nothing about the present applicant. Her father also did not state that the applicant did forceful sex with her. The cumulative effect of the statements of the other relevant witnesses reveals that the victim did not complain immediately when her parents and brothers made enquiry about the allegations. The medical report is not supported the prosecution. The investigation has been completed. There are no antecedents to the discredit of the applicant. His further detention would serve no purpose. Hence, the order.

ORDER

- (i) The application is allowed.
- (ii) Applicant Govind Neminath Shelke 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) He shall not contact the victim or her relatives in any mode or manner till conclusion of the trial.
- (c) He shall attend the trial on each and every effective date.
- (d) He shall stay away from village Kheda post Chapaner Taluka Kannad, District Aurangabad for two months from the date of his release.

(S. G. MEHARE)
JUDGE

ysk