

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

933 BAIL APPLICATION NO.1001 OF 2023

AMOL RAOSAHEB NIKAM
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Wakale Vijay Shivaji.
APP for Respondent-State : Mr. K. S. Patil.
Advocate for Respondent No.2 : Mr. G. B. Patunkar (Appointed
Through Legal Aid)

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CORAM : S. G. MEHARE, J.
DATE : 07.07.2023

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.11 of 2023, registered with Pishor Police Station, District Aurangabad, for the offences punishable under Sections 306, 376, 354, 354(D) read with Section 34 of the IPC and Section 4, 6, 8, 12, 17 of the POCSO Act.
3. The FIR reveals that the victim and the applicant had love affair. Two days before the incident, the victim went the house of the applicant and stayed there till next day. It is alleged that

in the said intervening night, the applicant did sex with her. When she was forced to tell what happened in the intervening night of 11.01.2023 and 12.01.2023, that time she disclosed the alleged incident of sexual assault. Further it has been alleged that due to the forceful sex with her, the accused abetted her father to commit suicide.

4. Learned counsel for the applicant would submit that since the applicant is not in the genealogy of the family of the victim, her family was opposing their relationship. The applicant and the victim were proposed to marry. He never did sex with her. The entire villagers were knowing about their relationship. Her statement itself shows that she came to his home voluntarily. That time, the mother of the applicant was at home. He would further argue that there is no nexus between their relationship and suicide of her father. The medical evidence does not support the prosecution. The charge sheet has been filed. Nothing is to be recovered. There are no antecedents to the discredit of the applicant. Hence, he may be granted bail

5. Learned APP and the learned counsel for the victim submit that the victim was sexually assaulted. The applicant did forceful sex with her in his own house under the promise to

marry her. In the month of April 2020, the applicant was given understanding to cut the relationship with the victim, but he did not listen and continued in keeping the relationship with her and that was the abetment to commit suicide. The offence is serious. Hence, he may not be granted bail.

6. The facts discussed above indicates that the victim was voluntarily in relationship with the applicant. Her family was opposing their relationship. Her own statement reveals that a day before the suicide of her father, she went to the house of the applicant voluntarily and stayed there. Perhaps, she might have lodged the report after suicide by her father. Considering the facts in toto, it appears that the allegations have been made as her father committed suicide. The investigation has been completed. Charge sheet has also been filed. Therefore, no purpose would be served keeping him behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **AMOL RAOSAHEB NIKAM** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.11 of 2023,

registered with Pishor Police Station, District Aurangabad, for the offences punishable under Sections 306, 376, 354, 354(D) read with Section 34 of the IPC and Section 4, 6, 8, 12, 17 of the POCSO Act, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
 - (b) He shall not contact the victim till conclusion of the trial.
 - (c) He shall stay away from the village Sawargaon, Taluka Kannad for two months from the date of his release.
- (iii) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal charges to Mr. Patunkar, learned counsel appointed for respondent No.2, as per the schedule.

(S. G. MEHARE, J.)

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vmk/-