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

BAIL APPLICATION NO.1075 OF 2023

**KIRAN BABASAHEB WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Salunke Sudarshan J
APP for Respondent/State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : JULY 11, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.170 of 2020 registered with Shiradhon Police Station, District Osmanabad for the offence punishable under Section 341, 342, 452, 376, 376 (2)(n), 506 of the Indian Penal Code.
3. The applicant has a case that on the alleged date of incident, he was on Covid-19 pandemic bail. He had a consensual relationship with the victim. He never threatened her. However, her family got suspicious about their relationship; hence, to save her skin, she has lodged a false report. The applicant was a convict in Sessions Case No.50 of 2014. However, he was undergoing the sentence in another case. Hence, he had not claimed the bail. However, recently

his sentence has been suspended and he has been released on bail in that crime.

4. Learned counsel for the applicant reading the FIR would submit that there was inordinate delay in lodging the report. The incident dated 09.10.2020 allegedly happened in a open public toilet was impossible. The applicant had no reason to go there unless the victim informed him. It was a open place. Therefore, doing sex there is also improbable. Considering this fact, only the applicant being a convict, would not disentitle him to get the bail. Learned counsel for the applicant pressed into service the facts and circumstances of the case and prayed to grant the bail.

5. Learned APP would submit that there were antecedents to the discredit of the applicant. A similar offence of outraging the modesty of the woman was to his discredit. He had threatened the victim. Hence, there was delay in lodging the report. The consensus sexual relationship is a false and cooked story of the applicant. He was convict for the offence under Section 304(1) of the Indian Penal Code. He had a terror in the locality. Therefore, the delay was caused and the said delay was explained properly. The offence is serious. Bare suspension of the sentence in another case, may not be a ground to grant the bail.

6. Perused the charge sheet. From the record it appears that there is substance in the arguments of the learned counsel for the

applicant about happening of the said incident. It appears that the applicant had no reason to know that the victim had been to the public toilet at the time of alleged incident. Normally, it is a common time for the toilet for the villagers. Bearing in mind the circumstances, the defence of the applicant appears probable. As far as the apprehension is concerned, that may be guarded by imposing certain conditions on the applicant. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Kiran Babasaheb Waghmare, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with the above crime, on the conditions that he shall not tamper with the prosecution witnesses.
- (iii) The applicant shall not contact the victim or her family, till conclusion of the trial.
- (iv) The applicant shall not enter Village Deodhanora, Taluka Kalamb, District Osmanabad for two years from the date of his release.

(S.G. MEHARE, J.)