

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1122 OF 2023

Santosh Wamrao Bharti

.... Applicant

Versus

The State of Maharashtra
and another

.... Respondents

.....

Mr. V.S. Patil, Advocate for the Applicant

Mr. K.S. Patil, APP for Respondent No.1–State

Mr. H.P. Randhir, Advocate for Respondent No.2

.....

[CORAM : S. G. CHAPALGAONKAR, J.]

DATE : 17th OCTOBER, 2023

ORDER :

1. The applicant seeks regular bail in connection with Crime No.278 of 2021 registered with Bazarpeth Police Station, Bhusawal, District Jalgaon for the offences punishable under sections 376(2)(n), 376(3), 354(A), 323, 506 r/w 34 of the Indian Penal Code and section 6, 8, 21 of the Protection of Children from Sexual Offences Act.

2. Investigation was set in motion on the basis of the information given by the victim herself who is aged about 17 years. It is alleged that the applicant-accused was aware about the outraging of modesty of the informant by accused No.1. Taking disadvantage, the applicant threatened her to defame and with such threats, committed rape on her continuously for seven months. Thereafter, the information was given to the police, and on the basis of the aforesaid

information, Crime No. 278 of 2021 was registered. The applicant has been arrested on 24.06.2021. The investigation progressed. Charge-sheet came to be filed on 17.08.2021.

3. Mr. Patil, learned advocate for the applicant submits that the applicant has been falsely implicated. The F.I.R. is lodged after huge delay when there was alleged continuous sexual molestation for the period of seven months. There is no reason for not moving police machinery earlier. He submits that the applicant is behind bars for more than two years. The trial is yet to commence.

4. Considering the submissions advanced, a report was called from the Sessions Court regarding progress of the trial. The report shows that till the date, trial could not be commenced. Even the charge is not framed. More than 918 criminal cases are pending for trial with the Court. It clearly suggests that the trial would take much time. The affidavit has been filed on behalf of respondent No.2/complainant, wherein she states that she has no objection to release the applicant on bail.

5. Although there are serious allegations in the F.I.R., which *prima facie* discloses commission of offence, considering submissions advanced by learned advocate for applicant and inordinate delay in lodging F.I.R., and the fact that the applicant is behind the bars for more than 28 months, and the fact that charge is yet to be framed, it would not be proper to continue his detention. However, to secure the interest of the prosecution, some conditions can be imposed. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant – SANTOSH WAMANRAO BHARTI be released on bail in connection with Crime No. 278 of 2021 registered with Bazarpeth Police Station, Bhusawal, District Jalgaon for the offences punishable under sections 376(2)(n), 376(3), 354(A), 323, 506 r/w 34 of the Indian Penal Code and section 6, 8, 21 of the Protection of Children from Sexual Offences Act on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand), on the following conditions :-
 - [a] The applicant shall not tamper the prosecution evidence.
 - [b] The applicant shall not contact with any witnesses named in the charge-sheet
 - [c] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.

[S. G. CHAPALGAONKAR]
JUDGE

S.P. Rane