

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 BAIL APPLICATION NO.1222 OF 2023

VISHAL SANTOSH BHOI
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Harshal Prakash Randhir
and Mr. S. K. Agrawal

APP for the Respondent/s – State : Mr. S. B. Narwade
Advocate for Respondent No.2 : Mr. Prasad Balasaheb Kadam
(appointed Through Legal Aid)

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CORAM : S. G. CHAPALGAONAKAR, J.

DATE : 21.09.2023

PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.271 of 2020, dated 19.07.2020 registered with Ramanandnagar Police Station District Jalgaon, for the offences punishable under Sections 306, 376, 305, 323 of the Indian Penal Code and under Sections 4, 5(I), 6, 8, 12 of the POCSO Act.

2. The investigation was set in motion on the basis of complaint lodged by the mother of the victim wherein she disclosed that her daughter aged about 16 years 9 months was missing since 12.30 p.m. On the basis of her information, the offence under Section 363 of the Indian Penal Code was registered against unknown accused persons. On next day, i.e. on 20.07.2020, the dead body of the victim was found. The investigation was further progressed. The applicant has been

arrested on 22.07.2020. The charges were added for offences punishable under Sections 363, 306, 376, 305, 323 of the Indian Penal Code read with Sections 4, 5(L), 6, 8 and 12 of the POCSO Act, 2012. The prayer of the applicant for grant of regular bail has been rejected by the Sessions Court after filing of charge-sheet. Hence, the present application.

3. The learned Advocate appearing for the applicant would submit that the applicant has been arrested on 22.07.2020 and since then, he is behind the bar. The investigation in the matter is complete. Further detention of the applicant is not necessary. He would further submit that the deceased victim and applicant were having love affair and preparing for the marriage. However, the family members of the victim were opposing such relationship and they were preparing for her marriage elsewhere. In this backdrop, the victim has committed suicide. Accordingly, he urges that the applicant be released on bail.

4. The learned APP so also the learned Advocate appearing for the first informant vehemently oppose the application. They would point out that the victim is seen in the company of the applicant just before she committed suicide. The CCTV Footage is collected during the investigation, which shows that the applicant had slapped the victim. The statement of one watchman namely Bhagwat Bhalerao is relied to

show that he has seen the applicant in the company of the victim and applicant had assaulted her.

5. Having considered submissions advanced, it is apparent that investigation is complete and the offence under Section 363 of the Indian Penal Code was registered against unknown accused persons. The dead body of the victim was found. Thereafter further investigation was carried out and the applicant has been arrested on 22.07.2020. The gist of the allegation against the applicant is that the victim was a minor. The applicant has instigated the commission of suicide so also he had established sexual relations with her. However, medical evidence do not support that victim was subjected forcible sexual relationship. On other hand, the supplementary statement of the informant shows that the victim had love affair with the applicant and they were preparing for the marriage. Even, family members of the victim were preparing to elsewhere marry her. The other statement in the file particularly the statement of witness Ramdas Bhos shows that in the evening of 19.07.2020 the victim was alone at the Mehrun Talav area. Although, the evidence on record shows that the victim was in the company of the applicant and at about 12.30 hours on 19.07.2020 and slapped her, it would not be sufficient to make out the case for abatement of suicide, so also *prima facie* evidence on record is bereft to bring home guilt against the applicant for the charged offences.

6. The applicant is behind bar since 22.07.2020. His further detention would not necessary. The case is made out for regular bail. Hence following order :-

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Vishal Santosh Bhoi be released on bail in connection with Crime No. 271 of 2020, dated 19.07.2020 registered with Ramanandnagar Police Station District Jalgaon, for the offences punishable under Sections 363, 306, 376, 305, 323 of the Indian Penal Code read with Sections 4, 5(L), 6, 8, 12 of the POCSO Act, 2012 on executing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) each on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not establish contact with any witness named in the charge-sheet.
 - (c) He shall attend each and every effective date during the course of trial.
- (iii) Bail Application is disposed of.
- (iv) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the legal fees to Advocate Mr. P. B. Kadam as per the rules.

(S. G. CHAPALGAONKAR)

JUDGE