

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

929 BAIL APPLICATION NO.1438 OF 2023

BANDU DEVIDAS DANGE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Narayan B. Narwade
APP for the Respondent – State : Mr. Joyeb I. Shaikh
Advocate for Respondent No.2 : Mr. Shaikh Joyeb I.

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CORAM : S. G. CHAPALGAONAKAR,J.

DATE : 15.09.2023

PER COURT :-

1. The applicant seeks regular bail in connection with Crime No. 0699 of 2023 registered with Rahuri Police Station, District Ahmednagar, for the offences punishable under Sections 376D, 506 of the Indian Penal Code and Section 8 of the POCSO Act.

2. The investigation was set in motion on the basis of the information given by one Vimal Gahininath Sable. It is alleged that on 15.06.2023 while the informant alongwith her daughter was waiting for the vehicle to reach Agriculture University at Rahuri, the accused arrived at the spot on his motor cycle. He offered lift to the informant and her daughter. The informant went alongwith him upto Pandharipool where they had breakfast together. Thereafter, the applicant along with his friend offered them to drop at Rahuri Agriculture University and in midway the applicant and his friend

raped the informant and also outraged the modesty of her minor daughter. It is alleged that since the informant was afraid, she could not lodge report earlier. Accordingly on the information dated 25.06.2023 the offence has been registered against the applicant and one another person for offences under Indian Penal Code as well as POCSO Act.

3. Mr. Narwade, learned Advocate appearing for the applicant submits that the prayer of the applicant for grant of regular bail has been rejected by Sessions Court vide order dated 03.08.2023. The applicant has been arrested on 27.06.2023. Since then he is behind the bar. The charge-sheet is filed. Investigation is completed. Further detention of the applicant would not be necessary. He would submit that apparently, there is delay of about 10 days in lodging the F.I.R. which is not explained. He would further submit that as per contents in the F.I.R. there was no acquaintance between the informant and applicant, however, she agreed to proceed with him on motor-cycle and thereafter, alleged incident has taken place. By referring to the spot panchanama so also statement of daughter of the victim, he would submit that false story has been hatched against the applicant . He would further submit that on investigation of one Sukhdeo Garje, who is in enemical terms with the applicant, the present FIR has been lodged.

4. Per contra, Mr. Patil, learned APP as well as Mr. Joyeb I. Shaikh learned Advocate appearing for the complainant vehemently opposes the application. They would submit that the applicant has committed heinous offence. Even the minor daughter of the informant is subjected to outrage of modesty. So also acts which are punishable under the POCSO Act. The learned Advocate appearing for informant would submit that she was afraid because of the threats, due to which the delay is caused in lodging the FIR. He would submit that after informant approached the S.P. Office, the FIR has been rejected. As such, the delay is inconsequential.

5. Having considered the submissions advanced, apparently, there is inordinate delay of 10 days in lodging the F.I.R., although it is contended on behalf of the informant that she was required to approach the S.P. Office and then only offence is registered, such contentions are not supported by the documentary evidence. (The communication relied upon shows the date after registration of the F.I.R.). The perusal of the contents of the F.I.R. shows that the informant and her daughter accompanied the applicant voluntarily on the motor-cycle. If there was no previous acquaintance, it is difficult to believe that a lady with daughter would to accept the offer of any motor-cycle rider to drop her at any particular place. Even after alleged rape committed by the applicant, the informant accompanied the applicant upto Agriculture University on the same motor-cycle,

such conduct of the applicant raises suspicion over the story given in the F.I.R. The statement of the daughter of the informant recorded under Section 161 of the Code of Criminal Procedure would show that during her interrogation in question-answer form, she disclosed nothing about the incident. After more than three weeks of the incident again by way of supplementary statement, the story similar to that of F.I.R. is sought to be canvassed. Pertinently, medical evidence nowhere depicts forcible sexual acts against informant. Considering the aforesaid circumstances, *prima facie* the genesis of the prosecution case appears to be shaken. The applicant has been arrested on 27.06.2023. The investigation in the matter is completed. Further detention of the applicant would not be necessary. In view of the same, the case is made out for grant of bail. Hence following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Bandu Devidas Dange be released on bail in Crime No. 0699 of 2023 registered with Rahuri Police Station District Ahmednagar, for the offences punishable under Sections 376D, 506 of the Indian Penal Code and under Section 8 of POCSO Act, 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 enter in Lakhmapuri village, Taluka Shevgaon, District Ahmednagar.
- c) The applicant shall attend each and every effective date before the trial Court.
- (iii) Bail Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

shp/-