

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

943 BAIL APPLICATION NO.1439 OF 2023
WITH APPLN/3605/2023 IN BA/1439/2023

ANAND @ POPAT VISHWANTH SAWANT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Ashraf Patel Shaikh
APP for Respondents: Mr. S.P. Deshmukh
Advocate for Respondents : Mr. N.T. Tribhuwan.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 21st SEPTEMBER, 2023

ORDER :-

Leave to correct the age of applicant. Amendment be carried out forthwith.

2. By this application, the applicant seeks regular bail in connection with Crime No. 42 of 2023 registered with Jafrabad Police Station, Dist. Jalna for the offences punishable under Sections 376(2)(f), 376 (2)(J), 323 and 506 of IPC.

3. The investigation was set in motion on the basis of the information given by the mother of the victim. She alleged that the victim is slow in understanding. She has been married and residing alongwith her husband. On 1.4.2023, she received a phone call from her son-in-law. He asked her to visit their place at Sawantwadi since the victim wants to have a dialogue with her. When the informant reached at Sawantwadi, the victim informed her that accused established forcible

sexual intercourse with her when she had been to field to graze cattle.

4. On the basis of the said report, crime No.42 of 2023 came to be registered for the aforesaid offences. The applicant has been arrested in pursuance of the aforesaid offence on 2.4.2023 and since then, he is behind bars. His prayer for grant of regular bail has been rejected by the learned Sessions Judge vide order dated 31.7.2023.

5. Learned Advocate for the applicant would vehemently submit that the investigation in the crime is over. The applicant is behind bars for more than 5 months . Further detention of the applicant would not be necessary. He would further point out that looking to the medical history as given by the victim, there is no penetration. As such, the offence of rape can not be invoked against applicant. He would submit that further detention of the applicant is not necessary, applicant is ready to abide by any condition as imposed by this Court.

6. Learned APP and learned advocate appearing for the informant vehemently oppose the prayer for grant of bail. They would point out that the victim is mentally disabled to certain extent. She has slow understanding. The medical record clearly indicates her mental status. It is further pointed out that the accused is aged about 65 years and he committed such heinous act against the victim. Therefore, they urged to reject the prayer for grant of bail.

7. Having considered the submissions advanced, although charge sheet is filed and investigation is complete, it can be noticed that applicant is aged about 65 years. The victim has mental and physical

disability. She had been to the field for grazing the cattle. The applicant, taking disadvantage of her mental condition, committed heinous act, which has been reported to police culminating into the registration of offence.

8. Although the medical history given by the victim do not clarify penetration, the other evidence on record would show that possibility of sexual violence can not be ruled out. Further, injuries are seen on the linear aspect of thigh, neck, shoulder and breasts, which are indicative of forcible sexual act. In that view of the matter, no case is made out for grant of bail. Hence the application stands rejected.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-