

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

941 BAIL APPLICATION NO.1485 OF 2023

SAGAR RAOSAHEB SOLANKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Nilesh S. Ghanekar
APP for Respondents: Mr. S.B. Narwade.
Advocate for respondent No.2 : Mr. S.A. Gaikwad.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 5th SEPTEMBER, 2023

ORDER :-

The applicants are seeking bail in connection with crime No. Crime No. 246 of 2023 registered with police station Shillegaon, Dist. Aurangabad for the offence punishable under Sections 376(2)(j), 376(2)(n), 506 r/w. 34 of IPC and under Sections 3(1)(r), 3(2)(w)(i)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Sections 4,8,12 of the POCSO, Act.

2. The investigation was set in motion on the basis of information given by the victim. It is alleged that the parents of the victim died about 10 years back. According to informant, she resides with her grand-mother since the period of COVID. One Sainath Solankar, is her neighbour and he used to have physical relations with the informant under threat to kill her. Because of such relationship, she has conceived pregnancy and brought to the hospital. On such information

Crime No. 246 of 2023 was registered against the named accused.

3. Pertinently, on the basis of supplementary statement of the informant, allegations are introduced against the applicants that they have forcibly established sexual relations with the victim and responsible for her pregnancy. The DNA samples are taken during the course of investigation. However, the report is awaited. The applicants are arrested in pursuance of the registration of offence, particularly, on the basis of the allegations in supplementary statement. They are behind bars from 31.7.2023. They moved application for regular bail before the Sessions Court. However, it has been rejected vide order dated 12th August, 2023.

4. Mr. Ghanekar, learned advocate for applicants would submit that the informant has specifically named the accused Sainath Solankar. Accordingly FIR was registered. The names of the applicants are introduced by way of supplementary statement. The DNA samples are collected and report of such samples may take its own time. Victim has conceived pregnancy. She never made any allegations against the applicant. First time their names are introduced by way of supplementary statement. The story in the FIR is inconsistent with the supplementary statement. The applicants are young age persons. They have no criminal antecedents. The further detention of the applicants would not be necessary. The interest of the prosecution can be secured by putting requisite conditions.

5. Learned APP opposes the prayers. He would submit that the supplementary statement specifically refers the role of the applicants.

The victim is a minor girl aged about 16 years. The applicants have committed heinous crime. The release of the applicant is likely to hamper further investigation so also the trial.

6. Learned advocate for the complainant vehemently opposes the prayer for grant of bail. He submits that version of informant in supplementary statement is consistent with the statement recorded under Section 164 of the Cr.PC. The role of the applicants is specifically described.

7. Having considered the submissions advanced, apparently, the FIR has been lodged when the victim was in hospital and she was pregnant. Name of the accused Sainath Solankar was specifically mentioned. Even there are allegations that he had established sexual relations with the victim using force. On account of threats given by him, disclosure of such incident was not made by the victim. She specifically stated that the accused Sainath is responsible for her pregnancy. Surprisingly, the supplementary statement is recorded on the next date wherein no role is attributed to accused Sainath Solankar and the names of the applicants are introduced as persons who established forcible sexual intercourse with the victim. The explanation is given that since the victim was in confused state of mind, she has named Sainath in FIR.

8. Considering the aforesaid circumstances, the genesis of the prosecution case itself is doubtful. The DNA report may flash light on the role played by either of the accused. However, on the basis of inconsistent statement in the FIR and supplementary statement, it would

not be appropriate to continue detention of the applicants. It is made clear that the observations made in this order are prima facie in nature and only for the sake of deciding this application. Hence, the following order :-

O R D E R

- (i) The application is allowed.
- (ii) Applicants – Sagar Raosaheb Solankar and Kiran Manikrao Solankar, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- each with one solvent surety of the like amount, in aforementioned crime registered with aforementioned police station on the following conditions :-
 - (a) They shall not tamper with the prosecution witnesses.
 - (b) They shall not enter village Domegaon, Taluka Gangapur, Dist. Aurangabad till filing of charge sheet, except to visit the police station, as per this order.
 - (c) They shall attend the trial on each and every effective date.
 - (d) They shall visit the police station, once in a week, i.e. on every Friday between 10.00 a.m. to 2.00 p.m. till filing of charge sheet.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-