

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

BAIL APPLICATION NO.1670 OF 2023

Balu @ Mahadeo s/o. Sudhakar Phapal  
Age 36 years, Occu. Agri.,  
R/o. Belura, Tq. Majalgaon, Dist. Beed .. Applicant

Versus

1. The State of Maharashtra  
Through Police Inspector Dindrud,  
Tq. Majalgaon, District Beed
2. X.Y.Z. Through her gurdian .. Respondents

Mr. Vasant D. Salunke, Advocate for Applicant;  
Mr. S. P. Tiwari, APP for Respondent No.1/State;  
Mr. Rahul D. Khadap, APP for Respondent No.2

**CORAM : S. G. MEHARE, J.**

**DATE : 09-11-2023**

**PER COURT :-**

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1/State and the learned counsel for respondent No.2.
2. This is a successive bail application of the applicant after rejection of the bail by this Court.

3. The applicant is seeking bail in C.R.No.230 of 2022, registered with Police Station Dindrud, District Beed, for the offences punishable under Sections 376D, 366A, 506 read with Section 34 of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Sections 3(2)(v), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The learned counsel for the applicant submits that after rejection of his earlier bail application, the applicant has recently learnt that it is practice of the family of the complainant to trap the rich person, lodge the similar type of report.

5. He produced the first information report of the real sister of the complainant registered with Police Station Kaij in 2013. He also produced the copies of the evidence recorded in the Sessions Court of her mother and the victim. Both of them have stated nothing was happened and were declared hostile. He would submit that the family of the complainant extracts a huge amount in Lakhs by implicating the rich person in trapped cases. As per his information, in that case, around 20 Lakhs were extracted from the accused who was from a reputed family. He has also produced the copy of the judgment of that case.

6. He also submits that the false implication of the applicant can be assessed from the report filed under Section 169 of the Code of Criminal Procedure against his wife. The applicant also reiterated that it is the practice of the family to trap one rich person lodge, the report and leave that place and start residing at another place. Immediately after the report was lodged, the family shifted to Parbhani. He submits that these are the changes in the circumstances and additional information with the applicant.

7. The learned counsel for the victim and the learned A.P.P. would submit that the applicant was the main culprit. He lifted the victim, took her in the sugarcane crop, called the co-accused and they committed rape. Her statement is consistent under Section 164 of the Cr.P.C. The medical evidence also supports her contention. It is a case of gang rape. The victim is a minor. There is every possibility of tampering with the prosecution witnesses. There are no change in circumstances. Hence, considering the gravity of the offence and the role attributed to the applicant, the application deserves to be dismissed.

8. Before adverting to the arguments of the respective counsels, the Court observe that the facts noticed about the

practice followed by the family of the complainant trapping the rich person and extracted huge money is the change in circumstances and additional material. Hence, this application is considered though earlier bail application was dismissed.

9. Considering the papers placed on record, the possibility of trapping the rich people by the family of the complainant cannot be ruled out. The similar incidents repeatedly happening in the family raises a suspicion on the conduct of victim's family. There appears substance in the arguments of the learned counsel for the applicant, that the Government pays a good compensation in the cases of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and it has been exploited. The statements of the victim's mother and the victim in the earlier case of 2013 corroborate the submission of the learned counsel for the applicant. The statement of the applicant that now the complainant and her family demanding him lacks of rupees can also not be ruled out. Another circumstance favouring the applicant is that his wife has been discharged under Section 169 of the Cr.P.C. against whom serious allegations were made that she took the pictures of the incident. Normally, the accused has very less to say in criminal cases. Fortunately, the applicant has the evidence to believe him that the possibility of false implication is there. Considering the new material produced

before the Court, about the *modus operandi* of the family of the victim, the applicant deserves bail. Hence, the order :-

ORDER

- i) Bail application is allowed.
- ii) Applicant Balu @ Mahadeo s/o. Sudhakar Phapal be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
  - (a) He shall not tamper with the prosecution witnesses.
  - (b) He shall not contact the victim or her family member in any mode or manner till the conclusion of the trial.
  - (c) He shall attend the trial on each and every effective date.

**( S. G. MEHARE )  
JUDGE**

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