

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 BAIL APPLICATION NO.1874 OF 2022

SHAIKH HUSSAIN SHAIKH MAHEMOOD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Gangakhedkar Shailendra S.
APP for Respondent-State : Mr. S. P. Sonpawale.
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CORAM : S. G. MEHARE, J.
DATE : 05.01.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The facts of the case reveals that the incident happened in the night. It has been alleged that the applicant dragged the victim to the nearby hut from her house. However, due to the noise, her daughter woke up, she shouted. Then, the victim alleged against the applicant that he did forceful sex with her. He took her from her house in the mid night as the door was opened since it was a summer. The prosecution also examined 2-3 neighbours as witnesses. However, their statements cannot be believed at this juncture as the daughter of the victim who was the first witness stated in her statement recorded under

Section 164 of the Cr.P.C. that when she shouted, the applicant flee away. That apart, the learned counsel for the applicant referring to the medical evidence correctly pointed out that there were no dragging marks on her person. In the circumstances, the possibility of consensus sex cannot be ruled out. Considering the entire circumstances of the case, the applicant appears to have a good case for bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SHAIKH HUSSAIN SHAIKH MAHEMOOD** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.107 of 2022, registered by Police Station Himayatnagar, District Nanded, for the offence punishable under Sections 376(1), 452, 506 of the IPC, on the following conditions :
 - (a) The applicant shall not tamper with the prosecution witnesses.

- (b) He shall not contact any of the witnesses including prosecutrix till the conclusion of the trial.
- (c) He shall go pass through the house of the prosecutrix till the conclusion of the trial.

(S. G. MEHARE, J.)

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vmk/-