



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

BAIL APPLICATION NO.1793 OF 2023

AFTAB @ AFTAF ABDULRAOOF CHAOOS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. A. N. Nagargoje, Advocate for the Applicant.

Mrs. P. J. Bharad, APP for Respondents-State.

Mrs. Manjushri Shendage-Narwade, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.427/2023 registered with Ahmedpur Police Station, Tq. Ahmedpur, Dist. Latur for the offences punishable under Sections 377, 323 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by victim himself, who alleges that on 12.07.2023 he received mobile call from his friend Aftab Chaoos (present applicant) and he asked him to come at Mahesh Urban Bank. When victim went there, accused took him on his motorcycle. They went to Raigad Hotel at Tembhurni Road where another accused Walmik Pilewad joined them. They consumed tea and then decided to have liquor in a room. All of them went to room where they consumed liquor. Thereafter, the victim received mobile call of his father. He was intending to leave the room, at that time the accused persons assaulted him by fists and kicks blows. The accused Walmik undressed him and done carnal intercourse against his wish. On the basis of information, Crime

No.427/2023 came to be registered for the aforesaid offence against both the accused. The applicant has been arrested immediately upon registration of crime. His prayer for grant of bail has been rejected by the Court of Sessions vide order dated 27.09.2023.

3. Mr. Nagargoje, learned Advocate appearing for the applicant would submit that the applicant is not attributed with any role that would constitute an offence under Section 377 of the Indian Penal Code. The allegations in the FIR, so also the material in the charge-sheet indicates that the accused Walmik Pilewad is attributed with the allegations constituting an offence under Section 377 of the Indian Penal Code. He would submit that the investigation in the matter is complete. The charge-sheet is filed. Further detention of the applicant would not be necessary.

4. The learned APP opposes the prayer for grant of bail. She would invite attention of this Court to the medical examination report of the victim which suggest carnal intercourse.

5. Having considered submissions advanced, it can be observed from the contents of the FIR that victim went along with the applicant on his motorcycle. They consumed liquor. Thereafter, while victim was leaving for his home, he was assaulted by both the accused persons. However, further act to undress the victim and carnal intercourse is alleged against accused Walmik. It is difficult to gather from the material in the charge-sheet that the applicant had knowledge about the intention of accused no.1 to commit offence. However, it would be decided in trial whether applicant has aided or abated commission

of offence. In that view of the matter, considering the limited role attributed against the applicant and fact that investigation in the matter is complete and the applicant is behind the bar for more than four months, further detention of the applicant need not be continued. Hence, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Aftab @ Aftaf Abdulraoof Chaoos, be released on bail in Crime No.427/2023 registered with Ahmedpur Police Station, Tq. Ahmedpur, Dist. Latur for the offences punishable under Sections 377, 323 r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall not indulge in similar activity.
 - c. The applicant shall attend each and every effective date before Trial Court.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE