

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

940 BAIL APPLICATION NO.1813 OF 2023

SAYYAD ALIM SAYYAD MIR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Sayyed Tauseef Yaseen
APP for Respondent : Mr. S.P. Deshmukh

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : October 19, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.129 of 2023 registered with Police Station Sirsala, Tq. Parli, District Beed District for the offences punishable under sections 376(2)(n), 377, 354-D, 452, 504, 506, 34 of the Indian Penal Code.

2. On the information given by victim dated 13.7.2023 the aforesaid crime is registered. She states that she resides at village Shirsala since last two years. The accused was stalking her. He was expressing his love towards her and demanding sexual favour under threat of committing suicide. Finding her alone at the home, the applicant had forcible sexual intercourse with her. She alleges that the applicant also indulged in unnatural sex. It is alleged that the applicant gave her threat of causing murder of her child if she discloses the incident to anybody. It is further alleged that two days prior to lodging of the FIR, while she was at bedroom alongwith the

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applicant, her husband suddenly entered in and found applicant while he committing forcible sexual act with her. Hence, she lodged the report. The applicant has been arrested on 16.7.2023 in pursuance of the aforesaid crime. Investigation progressed. After completion of the investigation, charge-sheet has been filed.

3. Mr. Sayyed Tausiff learned advocate appearing for the applicant would submit that a false complaint has been lodged against the applicant. He would invite attention of this Court to the medical history recorded on 14.7.2023, wherein following lines are recorded, which reads thus :-

“Accused and victim were caught by her husband on 12.7.2023 at 12.30 am in victims bedroom. Accused refused any future plans of marriage with victim, when victim requested the same following which a complaint was lodged at Sirsala Police Station on 13.7.2023 at 9.03 p.m. Both victim (wife) and husband allege that the last baby (four month old) is a result of a sexual act which happened when her husband was not in town (he was in Aurangabad for two months).”

Based on such history, Mr. Sayyed Tausif would submit that a palpably false case has been made out.

4. Learned A.P.P however, opposed the prayer for grant of bail. He would submit that charge-sheet contains statements of witnesses, which supports the case of the complainant.

5. Having considered the submissions advanced, apparently, medical history recorded immediately after

registration of the offence gives some different picture regarding relationship of the applicant and the informant. Prima facie, the reason for lodging of the FIR is different than depicted in narration of complaint. It appears that there is continuous sexual relationship between the applicant and the informant for more than two years, which is known to her family members. Overall material in the charge-sheet is indicative of the fact that a twisted story is brought on record making allegation of rape against the applicant, although consensual relation was going on till discovered by husband. In that view of the matter, the case is made out for grant of bail. It is made clear that the observations made herein above are based on prima facie consideration of the record and only for purpose of disposal of this application. Hence, the order.

O R D E R

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant - SAYYAD ALIM SAYYAD MIR be released on bail in connection with Crime No.129 of 2023 registered with Police Station Sirsala, Tq. Parli, District Beed District for the offences punishable under sections 376(2)(n), 377, 354-D, 452, 504, 506, 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand) on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.

- b] The applicant shall not enter village Sirsala, Tq. Parli, District Beed, till conclusion of the trial.
 - c] The applicant shall not contact any witness named in the charge-sheet.
 - d] The applicant shall not indulge into similar offences.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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