

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

BAIL APPLICATION NO.1821 OF 2023

SWATI W/O DATTA SHIGATE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Satwik P. Waghchaure
APP for Respondent State: Mr. S.A. Gaikwad
Adv. for respondent No.2 : Mr. A.D. Raut.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 28th NOVEMBER, 2023.

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 199 of 2023 registered with Beed Rural Police Station, District Beed for the offences punishable under Sections 376, 376(2)(I), 376(2)(J), 376 (2)(N), 376 (3), 313, 315, 316, 318, 201, 342, 506 r/w. 34 of IPC and Sections 4,6,8 and 12 of POCSO Act, 2012.

2. The investigation was set in motion on the basis of complaint of the victim who alleges that her parents are handicapped. Accused Ranjit repeatedly committed rape on her. She conceived pregnancy due to the sexual assault. Thereafter, under the pretext of giving treatment to her a Doctor was consulted and she was taken to Aurangabad, where, she was subjected to termination of pregnancy. Accused Sunita Sapkale and Anil Sapkale are alleged to have disposed of the still-born foetus. On the basis of such information, the aforesaid crime was registered. The

investigation progressed. The applicant came to be arrested in pursuance of the aforesaid crime on 14.7.2022. Since then, she is behind bars. After completion of the investigation, charge sheet has been filed. The prayer of the applicant for grant of bail has been rejected by the learned Sessions Judge vide order dated 27.9.2023. Hence, this application.

3. The learned advocate for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. He would point out that so far as the offence under Section 376 of IPC is concerned, the applicant has no role. However, she has been roped in, for offences U/Sec. 313, 315, 316 and 318 of IPC. The offences alleged are punishable for imprisonment for less than 10 years. The applicant has infants dependent on her. Her further detention would not be necessary.

4. The learned APP strongly opposes the prayer for grant of bail. He would submit that the applicant was found to be indulged in a heinous offence. A minor victim was initially subjected to rape and then to illegal termination of pregnancy. The learned advocate for the complainant also vehemently opposes the prayer for grant of bail. He would point out the statements of witnesses brought on record depicts that the applicant acted as an agent for purpose of illegal abortion of the victim. The applicant has played major role in commission of the offence. He would contend that the applicant runs a racket of illegal abortion and acts as a link for persons who are indulged in illegal abortions. He would also point out that the charge has been framed. Release of the applicant at this stage may hamper smooth trial. At the most, the trial can be expedited.

5. Having considered the submissions advanced, apparently, the applicant has no role in respect of the offence punishable under Section 376 of IPC or the offences under the POCSO Act. The applicant is alleged to have acted as a link between the main accused Ranjit and Sunita Sapkale, who has given effect to the illegal abortion. The material on record shows money transfer/transactions between the brother of the main accused and accused Anil Sapkale and his son Sunil Sapkale. Although, prima facie, there is evidence to indicate the applicant's role as a link for transfer of the money to accused Sunita, there is nothing to indicate that she has actually participated in the illegal abortion or disposal of the foetus. Such role is specifically attributed against accused Sunita and her husband. The learned APP informs that there are no criminal antecedents against the applicant. The learned advocate for the applicant has pointed out that there are two infants dependent on the applicant who are aged about 14 to 15 months. The investigation in the matter is complete. Charge sheet is filed. The offences alleged against the applicant are punishable with imprisonment for less than 10 years. The applicant is a lady. In that view of the matter, further detention of the applicant would not be necessary. However, release of the applicant shall be subject to stringent conditions. Resultantly, the following order :-

O R D E R

- [i] The application is allowed;
- [ii] Applicant – Swati W/o. Datta Shigate, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, in connection with Crime No. 199 of 2023 registered with Beed Rural Police Station, District Beed for the offences punishable under Sections 376, 376(2)(I), 376(2)(J), 376 (2)

(N), 376 (3), 313, 315, 316, 318, 201, 342, 506 r/w. 34 of IPC and Sections 4,6,8 and 12 of POCSO Act, 2012, on the following conditions:-

[a] The applicant shall attend each and every effective date of trial before the Special Court.

[b] The applicant shall not tamper with the prosecution evidence.

[c] The applicant shall not indulge in similar activities as alleged against her.

[iii] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-