

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

927 BAIL APPLICATION NO.1828 OF 2023

SAGAR SURESH SHINDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Shaikh Mohammad Naseer A
APP for Respondent : Mr. S.P. Deshmukh

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 03, 2023

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PER COURT :-

1. The learned APP informs that the Investigating officer is present alongwith the requisite documents as per the directions given by this Court vide order dated 30.10.2023.

2. The applicant seeks regular bail in connection with Crime No.157 of 2023 registered with Muktai Nagar police station, District Jalgaon for the offences punishable under section 376 of the Indian Penal Code.

3. Investigation was set in motion on the basis of the report given by informant herself, who is aged about 20 years. She alleges that on 9.5.2023 while she had been to latrine in a common area called Godri, accused dragged her in a lonely dilapidated house/hut-met at Nivrutti Nagar area and established physical relations with her. Although, she resisted her clothes were teared by the accused and because it was a lonely place, none rushed to escape her. She narrated the incident to her husband and her parents. On arrival of her

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parents on 12.5.2023 she lodged the report. On the basis of the aforesaid information, Crime no.157 of 2023 came to be registered with police station Muktai Nagar against the applicant/accused. In pursuance of the aforesaid FIR, investigation progressed. The applicant has been arrested on 13.5.2023. Since then, he is behind bar. His plea for grant of bail has been rejected by the Sessions Judge, Bhusawal vide order dated 10.8.2023. Hence, this application.

4. Mr. Shaikh, learned advocate appearing for the applicant would submit that applicant has been falsely implicated in the crime. Although, the incident is alleged to have taken place on 9.5.2023, FIR has been lodged on 12.5.2023 i.e. after delay of more than three days. He would submit that medical evidence on record do not support allegations of forcible sexual intercourse. Except belated statement of the informant, there is no material in the charge-sheet to support the case of the prosecution. He would therefore urge to release the applicant on bail.

5. Learned A.P.P. strongly opposes the prayer. He would point out that the statement of the informant recorded in FIR and her statement u/s 164 of the Criminal Procedure Code is consistent. There is no reason to disbelieve her. He submit that delay is well explained. Since cognizance of her complaint was not taken by husband and in-laws of the informant, complaint has been lodged after arrival of parents of the victim. Therefore, he opposes the prayer for grant of bail.

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6. Having considered the submissions advanced and after going through the contents of charge-sheet, it can be gathered that incident dated 9.5.2023 has been reported to police on 12.5.2023 with inordinate delay of more than 72 hours. Statement of victim's husband is recorded during the course of the investigation, which states that victim had first time disclosed about such incident on 12.5.2023 when guest had arrived at the home for celebrating some function. Perusal of the spot panchnama shows that spot of the incident is in the crowded area; where there are many houses. Place where alleged incident took place is dilapidated house in the plotting area, which is at some distance from the open space. Narration given in the FIR that accused dragged the victim up to dilapidated hut-met/room that too in the evening at 7 pm, some independent witness could have been made available, which is absent.

7. Perusal of the medical record depicts that no physical injury to support exertion of force could be found on the person of the victim. There is nothing to corroborate belated version of the victim narrated in the FIR. Taking into account material on record, prima facie genesis of the prosecution case appears to be doubtful. In that view of the matter, case is made out for grant of bail. The observations made herein-above are on prima facie consideration of the material in the charge-sheet and made only for purpose of this application. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - SAGAR SURESH SHINDE be released on bail in connection with Crime No.157 of 2023 registered with Muktai Nagar police station, District Jalgaon for the offence punishable under section 376 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 in Bhoivada Nivruttinagar Slum Area, Tq. Muktainagar, till conclusion of the trial.
 - c] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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