

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1890 OF 2023**

1. Karan Uttam Rathod,
Age: 20 years, Occu.: Education,
R/o. Gudma, Post Chapaner,
Tq. Kannad, Dist. Aurangabad.
2. Uttam Dashrath Rathod,
Age: 50 years, Occu.: Agri.,
R/o. Gudma, Post Chapaner,
Tq. Kannad, Dist. Aurangabad. ..Applicants

Versus

1. The State of Maharashtra.
2. The Police Inspector,
Kannad Police Station (Rural),
Tq. Kannad, Dist. Aurangabad.
3. XYX. ..Respondents

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Mr. D. K. Dagadkhair, Advocate for the Applicants.
Mr. K. S. Patil, APP for Respondents-State.
Mr. Mahesh Bhosale, Advocate for the Complainant.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 09th NOVEMBER, 2023.**

PER COURT:-

1. The applicants seek regular bail in connection with Crime No.173 of 2023 registered with Kannad (Rural) Police Station, District Aurangabad for the offences punishable under Sections 212, 323, 354, 354-A, 354-D, 504, 506 r/w 34 of the Indian Penal Code and Sections 8, 12 and 17 of the POCSO Act.

2. The investigation was set in motion on the basis of information given by the victim herself, who alleges that she is prosecuting her studies in 9th standard at Champavati Kanya

Vidyalaya, Chapaner. She alleges that on 21.07.2023 she had been to the school and after returning from the school, she went to fetch the water on the well of one Shivilal. The applicant no.1 came on the spot and offered a flower to her, which she refused. Thereafter, he threatened her to kill. Again on the next day i.e. on 22.07.2023, he halted her while she was on the way to the school. Even, he attempted to intercept vehicle in which she was traveling. It is further alleged that when she alighted from the vehicle, applicant no.1 caught hold her hand and snatched her scarf. On the basis of the aforesaid information, Crime No.173/2023 came to be registered against the applicants. The role of applicant no.2 is brought on record on the basis of supplementary statement of the first informant, wherein she alleges that applicant no.2 has instigated applicant no.1. The investigation progressed. Both the applicants have been arrested on 26.07.2023. Since then, they are behind the bar.

3. Mr. Dagarkhair, the learned Advocate appearing for the applicants would submit that the applicants have been falsely implicated in the aforesaid crime. No role is attributed against applicant no.2 in commission of offence. He would submit that the investigation in the matter is complete. The charge-sheet is filed. Further detention of the applicants would not be necessary.

4. The learned APP as well as learned Advocate appearing for the complainant strongly oppose the prayer. They would point out that applicant no.1 is a habitual offender. As many as four offences are at his discredit. The release of the applicants may create terror in the mind of the informant. The possibility of tampering of the evidence cannot be ruled out. They would submit that possibility of recurrence of similar incident cannot be ruled out.

5. Having considered submissions advanced, it appears that first informant is a school going girl and uses transport facility privately provided by one villager. The gist of the allegations against applicant no.1 are that he was constantly stalking the victim and lastly caught hold her hand. Except that there are no more allegations. The offences alleged are triable by the Magistrate. The investigation in the matter is complete. The charge-sheet is filed. The applicants are behind the bar for more than three months. Although there is *prima facie* material against the applicants showing their complicity in commission of offence, it would be a subject matter of trial. For that purpose further detention of the applicants need not be continued. Hence, case is made out for grant of bail. However, to protect the interest of the minor prosecutrix, certain stringent conditions are required to be imposed. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, Karan Uttam Rathod and Uttam Dashrath Rathod, be released on bail in Crime No.173 of 2023 registered with Kannad (Rural) Police Station, District Aurangabad for the offences punishable under Sections 212, 323, 354, 354-A, 354-D, 504, 506 r/w 34 of the Indian Penal Code and Sections 8, 12 and 17 of the POCSO Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicants shall not tamper with the prosecution evidence in any manner.
 - b. The applicant no.1 shall not enter Kannad Taluka for the period of four months from the date of his release and he shall not enter village Gudma and Chapaner till conclusion of trial.

(iii) Application is disposed of.

(iv) Since Mr. Bhosale, learned Advocate is appointed through legal aid to represent victim, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for victim as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE