

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

14 BAIL APPLICATION NO.1905 OF 2023

1. SANTOSH TOTARAM JAMDHADE
2. KIRAN RAOSAHEB KHARAT
3. RITESH @ BABLU S/O GAUTAM NIKAM

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. N.S. Ghanekar

APP for Respondent 1 : Mr. K.S. Patil

Advocate for Respondent 2 : Mr. R.T. Tayade

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CORAM : S. G. CHAPALGAONKAR, J.

Dated: November 10, 2023

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PER COURT :-

1. Learned advocate appearing for the applicant seeks leave to delete section 376 and 376-D from prayer of the application. Leave granted. Deletion be carried out forthwith.

2. The applicant seeks regular bail in connection with Crime No.448 of 2023 registered with Cantonment police station, Aurangabad, District Aurangabad for the offences punishable under sections 354, 354-D, 341, 323, 504, 506 r/w 34 of the Indian Penal Code and u/s 8,12 of Protection of Children From Sexual Offences Act, 2012.

3. Investigation has been set in motion on the basis of the complaint given by Kavita Sunil Tupe, who alleges that she resides alongwith her husband and other family members. On 5.9.2023 while her daughter aged about 13 years was

returning home from the school, accused intercepted her, hurled abuses and threatened for withdrawal of previous complaint lodged by her with Cidco police station. It is further alleged that accused have sexually molested the minor victim and also threatened to rape her. Informant further alleges that accused attempted to snatch her saree. On the basis of the aforesaid information, crime no.448 of 2023 came to be registered with the police station cantonment. The applicants have been arrested in pursuance of the aforesaid crime on 21.9.2023. Since then, they are behind bar.

4. Mr. Ghanekar, learned advocate appearing for the applicant would submit that although, the incident is dated 5.9.2023 FIR has been lodged after delay of about 13 days. He would submit that investigation in the matter is practically completed. The applicants are behind bar for one and half months. Only offence u/s 354-D is non-bailable and punishable with imprisonment up to 5 years. He would therefore, urge that the applicant be released on bail.

5. Learned A.P.P. strongly opposes the prayer. He would submit that looking to the alleged act on the part of the applicants, possibility of recurrence of the similar offence cannot be ruled out.

6. Learned counsel appearing for the informant points out that although the informant had attempted to lodge the report with the police station, she was not entertained. Therefore, she was required to approach the police

Commissioner. He points out that written complaint was given with the office of the police commissioner as regards to the incident, thereafter present crime is registered. He, therefore, submit that recurrence of the similar offence cannot be ruled out.

7. Having considered the submissions advanced, apparently, there are allegations against the applicants in respect of the offence. Prima facie, there is delay in lodging the FIR. Police papers shows that investigation in the matter is practically over. The applicants are behind bar for more than one and half month. Trial will take it's own time. Offences alleged are triable by Court of Magistrate and punishable for imprisonment less than five years. Learned APP confirms that there are no criminal antecedents. However, considering nature of the offence, some stringent conditions are required to be imposed while releasing the applicants on bail. Subject to such conditions, case is made out for grant of bail. Hence, the following order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant nos.1]- Santosh Totaram Jamdhade, 2] Kiran Raosaheb Kharat and 3] Ritesh @ Bablu Gautam Nikam be released on bail in connection with Crime No.448 of 2023 registered with Cantonment police station, Aurangabad, District Aurangabad for the offences punishable under

sections 354, 354-D, 341, 323, 504, 506 r/w 34 of the Indian Penal Code and u/s 8,12 of Protection of Children From Sexual Offences Act, 2012 on their furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand), by each of them on the following conditions :-

- a] The applicants shall not tamper the prosecution evidence.
 - b] The applicants not to repeat similar offence.
 - c] The applicants shall not enter Chhavani area or any area in vicinity of victims school i.e. Kranti Jyotiba Phule School, Bhavsinghpura, Aurangabad till filing of the charge-sheet.
 - d] The applicant shall attend the concerned police station once in a week i.e. on every **Friday** between 10 am to 2 pm till filing of the charge sheet.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE.

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