

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

BAIL APPLICATION NO.1906 OF 2023

JAYWANT MURLI CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. V. U. Pawar, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.
Mr. S. P. Salgar, Advocate for Respondent No.2.

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

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.93 of 2023 registered with Bamni Police Station, District Parbhani for the offences punishable under sections 354, 354-A, 452, 324, 327, 323, 294, 506 r/w 34 of the Indian Penal Code and Section 12 of the POCSO Act, 2012.

2. The investigation was set in motion on the basis of complaint given by victim herself. She alleges that, previously Crime No.77 of 2022 has been registered against applicant for offences punishable under Sections 376(2), 324, 504 and 506 of Indian Penal Code and Sections 4, 8 and 12 of POCSO Act, 2012. The applicant was arrested in pursuance of said crime, however he is enlarged on conditional bail. It is further alleged that, on 08.07.2023 at about 4 p.m. applicant accused approached to the house of informant and abused her in filthy language. He was insisting that informant shall withdraw prosecution initiated against him in previous offence. He was then threatening to openly commit rape in front of villagers. Thereafter, he assaulted

informant and forcibly kissed her and also outraged her modesty. When her mother tried to intervene, accused persons assaulted her by fists and kick blows. When younger sister of informant attempted to separate quarrel, she was assaulted. Thereafter, intimation was given to the police. Accordingly, Crime No.93 of 2023 came to be registered against applicant and his brother for various offences under Indian Penal Code and POCSO Act.

3. Mr. Pawar, the learned advocate appearing for the applicant would submit that alleged incident took place in broad day light at public place. On completion of investigation, charge-sheet is filed. However, there is no independent witness to corroborate version of the informant. He would submit that, previous offence was falsely registered and since applicant is enlarged on bail again he is sought to be falsely implicated.

4. The learned APP strongly opposes the prayer. He would submit that applicant was enlarged on bail in previous offence subject to certain condition. He was not supposed to enter village Kawda or make any attempt to tamper evidence. However, applicant who is unfettered of law committed second offence. The applicant used force with sexual intent against minor victim and her sister who is aged about 12 years. He would submit that release of applicant may give rise to the recurrence of similar incident.

5. Having considered submissions advanced, it is not in dispute that the applicant is accused in previous offence in Crime No.77/2022, which is lodged by Gram Sevak namely Ravikumar Chavan. Accordingly, offence punishable under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006 invoked against applicant. Subsequently, offense under Section 376(2), 324, 504,

506 of Indian Penal Code and Sections 4, 8 and 12 of the POCSO Act, 2012 have been added. In that crime he has been released vide order dated 12.06.2023 subject to following conditions:

- “1. He shall not commit similar offence or any other offence in future and co-operate the investigation.*
- 2. He shall not directly or indirectly pressurize the witnesses or tamper the prosecution witnesses.*
- 3. He shall not enter into the vicinity of village where the victim female child resides, till the termination of the trial.”*

6. Pertinently, after release on bail, applicant went to house of victim, used criminal force against victim, her mother and her younger sister and forcibly kissed victim causing bleeding injuries and brutally assaulted her mother and younger sister. The medical certificate which is made part of the charge-sheet corroborates with version in FIR. The statements of victim and her sister are recorded under Section 164 of Criminal Procedure Code, which are also consistent as regards to the allegation in FIR.

7. Although in present case offences invoked are under 354, 354(A), 452, 324, 327, 323, 294, 506 r/w 34 of Indian Penal Code and under Section 12 of the POCSO Act, 2012, considering conduct of applicant and fact that recurrence of such incident cannot be ruled out, it would not be appropriate to exercise discretion in his favour. Apparently applicant appears to have flouted the condition of bail granted in previous offence and committed second offence. In that view of the matter, no case is made out for grant of bail. Hence, Application stands rejected.

8. Since Mr. Salgar, learned Advocate appearing for respondent no.2 is appointed through legal aid, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do

pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/November-2023