

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1908 OF 2023**

VIJAY SITARAM HIWALE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. R. B. Ade, Advocate for the Applicant.

Mr. K. S. Patil, APP for Respondents-State.

Mr. Amit S. Savale, Advocate for Respondent no.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 06th NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.299 of 2023 registered with Mukundwadi police station, District Aurangabad for the offences punishable under sections 354-A, 323 of the Indian Penal Code and Sections 7, 8, 9, 10, 17 of the POCSO Act, 2012.

2. The investigation was set in motion on the basis of the information given by Mr. Sanjay Sudamrao Magare, who works as Headmaster with Dnyandeep Primary School, Prakashnagar. He alleges that there are in all 12 teachers working in school and two of them are lady teachers. About 280 students are admitted in the school. The applicant is a class teacher of standard 5th (A) division and teaches Mathematics. It is alleged that some complaints were received as regards to the behavior of applicant, therefore, he checked the CCTV footage and found that the applicant was beating the students. It is alleged that the applicant was seen touching girl students with sexual intend. The incident was reported to the Director of the school and thereafter, the complaint has been lodged. Accordingly, Crime No.299/2023 came to be registered against the applicant for the offences punishable under Section 354-A, 323 of the Indian Penal Code

and Sections 7, 8, 9, 10, 17 of the POCSO Act, 2012. The applicant has been arrested on 11.07.2023. Since then, he is behind the bar. On completion of the investigation, charge-sheet has been filed.

3. Mr. Ade, learned Advocate appearing for the applicant vehemently submits that this is a case of false implication of the applicant in the aforesaid crime. He would point out that the FIR is lodged on the basis of so called incident dated 08.04.2023, which has been recorded in CCTV footage. However, during the investigation, such CCTV footage is not made available. He would point out that, although there are allegation regarding sexual molestation of the girl students, the statements of the students or their parents depict that they have no complaint against the applicant, as alleged in the FIR. False complaint is made on behalf of the Headmaster or Management of the school. He invites attention of this Court to the statements of the students recorded under Section 164 of the Criminal Procedure Code, so also the statements of the parents of the students recorded under Section 161 of the Criminal Procedure Code. Perusal of those statements depict that the girl students have no complaint against the applicant.

4. Mr. Savale, learned Advocate appears for the parents of the alleged victim girls. He submits the affidavit indicating that the parents have no complaint against the applicant.

5. The learned APP, however submits that there is CCTV footage, which indicate that the applicant was beating students and also depicts that he touched the girl students with sexual intend.

6. Having considered submissions advanced, apparently FIR is lodged based on CCTV footage dated 08.04.2023, which could not be made available during the course of investigation. The statements of the students are made part of the charge-sheet. Perusal of those statements would show that girl students are not specifically making allegations that the applicant has touched them with sexual intend. The statements of the parents of the alleged victim girls show that they have no complaint against the applicant. Similar affidavit is tendered before this Court. The investigation in the matter is complete. The charge-sheet is filed. The applicant is behind the bar since 11.07.2023. Further detention of the applicant would not be necessary. In that view of the matter, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Vijay Sitaram Hiwale be released on bail in Crime No.299 of 2023 registered with Mukundwadi police station, District Aurangabad for the offences punishable under sections 354-A, 323 of the Indian Penal Code and Sections 7, 8, 9, 10, 17 of the POCSO Act, 2012 on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before the Trial Court.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE