



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

BAIL APPLICATION NO.1923 OF 2023

Sushil Saysing Vasave
VERSUS

The State Of Maharashtra And Another

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Mr. S.A. Kulkarni Advocate for Applicant
Mrs. P.J. Bharad APP for respondent State.
Mr. A S. Savale Advocate for respondent no.2.

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AND

BAIL APPLICATION NO. 1936 OF 2023

Rahul Umbrya Valvi
VERSUS

The State Of Maharashtra And Another

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Mr. H.V. Tungar Advocate for Applicant
Mrs. P.J. Bharad APP for respondent State.
Mr. A S. Savale, Advocate for respondent no.2.

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(CORAM : S. G. CHAPALGAONKAR, J.)
Dated : December 11, 2023

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PER COURT :-

1. The applicants in both these bail applications are seeking regular bail in connection with Crime No.120 of 2023 registered with Molgi police station, District Nandurbar for the offences punishable under sections 305, 354-A, 500, 504 of the Indian Penal Code, section 4,6,8 and 12 of the Protection of Children from Sexual Offences Act and section 67-C of Information Technology Act.

2. On 15.7.2023 A.D. was recorded under section 174 of the Cr.P.C. stating that victim was found dead in the room and she has committed suicide. Postmortem was conducted on dead body of the victim. Cause of death was “Asphyxia due to Hanging” and viscera was preserved. Column no.17 depicts injury regarding ligature marks. The abrasions were recorded on throat. Except that, no injury was found on the person of the victim. Thereafter, on the complaint given by mother of the victim, crime no.120 of 2023 came to be registered for the offence punishable u/s 305, 354-A, 500, 504 of the Indian Penal Code read with section 8 and 12 of the Protection of Children from Sexual Offences Act.

3. The FIR alleges that victim was pursuing her education in 12th standard. Previously, she was residing in the hostel. Thereafter, she was shifted to a rented accommodation. Victim had reported that accused Rahul Valvi was stalking her and also used to abuse in filthy language. His father was informed about such conduct. It is further alleged that, a mobile instrument was recovered from the spot. It shows frequent communication between victim and accused Rahul. Screen shot of chat shows that there was violent conversation. FIR further alleges that accused Rahul had made viral certain photographs of the victim and because of his continuous torture, she committed suicide. The investigation progressed. Communication and chats between accused persons and victim have been made part of the investigation papers. A video recording was also found in the mobile phone, wherein victim

records that accused no.3 raped her. On completion of the investigation charge-sheet has been filed. The applicant Rahul Valvi arrested on 19.7.2023 and Sushil Vasave arrested on 22.7.2023. Since then, they are behind bar. Their prayer for grant of bail has been rejected by the trial Court. Hence, these applications.

3. Mr. Tungar, learned advocate appearing for the applicant in BA no.1936 of 2023 and Mr. Kulkarni, learned advocate appearing for the applicant in BA No.1923 of 2023 submitted that applicants have been falsely implicated. The material collected during investigation is bereft to make out any offence as alleged against them. Even, taking the entire material of charge-sheet into consideration, offence u/s 305 of the IPC would not attract against them. They would further submit that, there is an inordinate delay in lodging the FIR. Investigation in the matter is complete. Charge-sheet is filed. Hence, their further detention is not be necessary.

4. Learned A.P.P. as well as Mr. Savale, learned counsel appearing for the first informant vehemently opposes the prayer. By inviting attention to the mobile chat, they would submit that objectionable photographs of victim were made viral and inspite of repeated requests by the victim, those were not deleted. Tortured by such activities of accused persons, victim committed suicide. Mr. Savale made an attempt to urge that investigation in the matter is faulty. There were ante-mortem injuries on the person of deceased, those are not depicted in the inquest panchnama or postmortem

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report. Victim was ravished in-connivance of the accused persons and they were asking sexual favour. Possibility of homicidal death cannot be ruled out. A writ petition seeking directions for the re-investigation/further investigation is filed. Even, re-postmortem is already ordered and the report is not yet received. Release of the applicants at this stage may hamper further investigation so also smooth prosecution. Hence, he opposes the prayer for grant of bail.

5. Having considered the submissions advanced, it is apparent that initially A.D. of victim was recorded on 15.7.2023. The scenario on the spot is recorded which depicts that victim has committed suicide. On 18.7.2023, statement of mother of the victim is recorded, wherein she makes allegations against accused Rahul that he had stalked victim and also tortured her by various means. Her photographs were made viral. Even, prior to death of the victim, they had frequent communication. Messages, chats and screen shots shows that they had quarrel on account of making photographs viral on social media. On the basis of the aforesaid information, offence u/s 305, 354-A, 504, 500 of the IPC r/w section 8 and 12 of the POCSO Act came to be registered against accused persons.

6. The screen shots of the mobile communication between applicant Rahul and victim shows exchange of filthy language. So far as the applicant accused Sushil Vasave is concerned, he is alleged to have made viral photographs of victim. Apart from said material, there is nothing in the

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charge-sheet to bring home any other offence. Whether the accused persons had abetted suicide to the victim will have to be decided during the trial. On the basis of the material, which is made part of the charge-sheet, prima facie, it cannot be inferred that applicants were intended to abet commission of suicide by the applicant. So far as other facet raised on behalf of the first informant or complainant is concerned, re-postmortem report is still awaited. However, prima facie, there are no allegations against the applicants that they have caused any bodily injury to the deceased. As rightly pointed out by Mr. Tungar, mobile chats between applicant no.1 and deceased could be seen up to 2nd May, 2023, whereas victim lost her life on 15.7.2023. It is, therefore, difficult to draw nexus between the mobile chat and death of the victim. Apparently, applicants are young aged students without criminal antecedents. In that view of the matter, further detention of the applicants would not be necessary. They are behind the bar for more than four months. Investigation is complete. Hence, case is made out for grant of bail subject to certain conditions. Hence, the following order.

O R D E R

- i. Bail Applications are hereby allowed.
- ii. The applicant - Sushil Saysing Vasave in Bail Application No.1923 of 2023 and the applicant Rahul Umbrya Valvi in Bail Application No.1936 of 2023 be released on bail in connection with Crime No.120 of 2023 registered with Molgi police

station, District Nandurbar for the offences punishable under sections 305, 354-A, 500, 504 of the Indian Penal Code, section 4,6,8 and 12 of the Protection of Children from Sexual Offences Act and section 67-C of Information Technology Act 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 in both applications shall not tamper the prosecution evidence.
 - b] The applicants in both applications shall attend the concerned police station **Twice** in a Month i.e. on First and Third **Friday** between 10 am to 2 pm and co-operate with further investigation, if any.
 - c] Except for attending the police station, the applicants in both applications shall not enter Taluka Akkalkuwa District Nandurbar for a period of next six months from their release.
- iii. Bail applications are accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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