



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

BAIL APPLICATION NO.1984 OF 2023

**BHANUDAS GANPATI NATKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. Subhash S. Nade, Advocate for the Applicant.

Mr. S. A. Gaikwad, APP for Respondents-State.

Mr. C. S. Deshmukh, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.220/2023 registered with Ashti Police Station, Tq. Partur, Dist. Jalna for the offences punishable under Sections 376, 376(1), 376(DA), 354, 506 of the Indian Penal Code and Sections 4, 6, 8 and 12 of the POCSO Act.

2. The investigation was set in motion on the basis of information given by father of the victim, who alleges that on 23.07.2023 his daughter/victim made mobile call and asked about his whereabouts. She also asked him to come home at earliest. At about 06.00 pm when he reached home, his daughter was looking uneasy and worried. On enquiry, she disclosed that the first accused called her in his house, paid the amount of Rs.200/-, removed her clothes and had sexual intercourse. Thereafter, the second accused (present applicant) called the victim in the filter room and insisted the victim for sexual favour. He unclothed her and had sexual intercourse. The accused persons threatened her to not to disclose the incident to anyone. On the basis of the aforesaid information, Crime No.220/2023 came to registered.

The applicant has been arrested on 24.07.2023. Since then, he is behind the bar. The investigation in the matter is complete. The charge-sheet is filed. The prayer of the applicant for grant of bail has been rejected by the Special Court vide order dated 29.09.2023.

3. The learned Advocate appearing for the applicant would submit that the applicant is aged about 80 years. His Election Card and Aadhaar Card are placed on record in support of such contentions. He would submit that on account of village politics, the applicant has been falsely implicated in the aforesaid crime. By inviting attention of this Court to the medical examination report, he submits that there is inconsistency as regards to the narration appearing in the First Information Report and history recorded before the Medical Officer. Further corresponding injuries are not seen. As such, he urges to release the applicant on bail.

4. The learned APP, so also the learned Advocate appearing for the informant vehemently oppose the prayer for grant of bail. They would submit that the victim is aged about 13 years. The heinous act is committed by the accused persons. There is nothing to indicate political rivalry between the applicant and the informant. The offences are serious in nature. Hence, they urges to reject the prayer for grant of bail.

5. Having considered submissions advanced, apparently the allegations in the FIR show that the applicant is alleged to have committed rape on the victim. The victim was referred to the medical examination. The report of the medical examination nowhere indicates signs of any force. No external injury is found on the person of the victim. No penetration is seen. The hymen

perineum not found ruptured and was seen to be normal. The history is recorded by the Medical Officer where victim states that her private part was touched by the accused. If the aforesaid contents of the medical examination report are taken into account, apparently, the FIR is improvised version, wherein allegation of rape by two accused persons are made. The documentary evidence on record indicates that the applicant/accused is aged about 80 years as per Aadhaar Card and Election Card. Although, in medical examination his age is indicated as 57 years, the applicant appears to be the person of advanced age. The statement of victim dated 24.07.2023 appears to be consistent with the allegations in the FIR but inconsistent with the medical report. *Prima facie*, case for offence under Section 376 of the Indian Penal Code cannot be made out.

6. The investigation in the matter is complete. The charge-sheet is filed. The applicant is behind the bar for more than four and half months. In that view of the matter, case is made out for grant of bail subject to certain conditions. Hence, following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Bhanudas S/o Ganpati Natkar, be released on bail in Crime No.220/2023 registered with Ashti Police Station, Tq. Partur, Dist. Jalna for the offences punishable under Sections 376, 376(1), 376(DA), 354, 506 of the Indian Penal Code and Sections 4, 6, 8 and 12 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 applicant shall not tamper with the prosecution evidence in any manner.

b. The applicant shall not enter village Asangaon, Tq. Partur, Dist. Jalna for the period of six months from the date of his release.

c. The applicant shall attend each and every effective date before the Trial Court and co-operate for early disposal of the case.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE