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

BAIL APPLICATION NO. 2063 OF 2023

SUNIL @ AKASH ANNA BANKAR

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

.....

Advocate for Applicant : Mr. Satej S. Jadhav
with Mr. Aniket Manohar Adhane.

APP for Respondent No.1 : Mr. A.S. Shinde.
Advocate for respondent No. 2 : Mrs. Renuka Ghule – Palve.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 14th DECEMBER, 2023

ORDER :-

1. The applicant seeks regular bail in connection with crime No. 408 of 2022 dated 24.11.2022 registered with Satara Police Station, District Aurangabad, for the offences punishable under Sections 376(3), 376(2)(N), 506 of the IPC and U/sec. 4,8, and 5(J)(2)(L), 6 of POCSO Act.

2. The investigation was set in motion on the basis of the information given by mother of the deceased, wherein, it is alleged that the victim is pursuing her education in the 8th Standard. On 24.11.2022, the victim had pains in her stomach. She was taken to the hospital. The doctor found that she was carrying pregnancy. On interrogation with the victim, she disclosed that the applicant had acquaintance with her. He had developed friendship with the victim. They had frequent conversation through mobile phone. About 4 months prior to the filing of the complaint, the applicant had called the victim, took her in secluded construction site and established physical relations with her against her wish. As such, it is alleged that the victim conceived pregnancy because of the aforesaid sexual intercourse

established by accused. The statement of the victim is recorded on 24.11.2023. The applicant came to be arrested on 25.11.2022. The investigation progressed. Charge sheet came to be filed.

3. Mr. Satej Jadhav, learned advocate for the applicant would submit tht the victim had acquaintance with the applicant. They were good friends. However, the applicant has been falsely implicated when the pregnancy of the victim was detected. He would submit tht the previous bail application of the applicant was withdrawn with liberty to move afresh after receipt of DNA report. The report is received, which suggests that the applicant is excluded to be biological father. He would therefore submit that the possibility of false implication can be endorsed because the victim had conceived pregnancy because of her sexual relations with someone else.

4. Learned APP as well as the learned advocate for the victim have strongly opposed the prayer for grant of bail contending that although DNA report does not suggest applicant to be biological father in relation to pregnancy of victim, the allegations of establishing sexual relation with minor aged about 14 years remains unfettered. As such, there is strong prima facie material to bring home the complicity of the applicant in commission of offence.

5. Having considered the submissions advanced, it can be noted that the victim clearly states in her 161 statement that she had developed friendship with the applicant. They were having frequent conversations through mobile phones. When pregnancy of the victim was detected allegation is made that the applicant had called the victim about 4 months back at a secluded place and established physical relations. Pertinently, the said statement nowhere suggests that any force was used by the applicant. At this stage, Mr. Jadhav, learned counsel for the applicant submits that possibility of false implication of the applicant after detection of pregnancy cannot be ruled out. The DNA report clearly suggests that the applicant is

excluded to be biological father. If this circumstance is taken into account, prima facie, possibility of false implication of the applicant cannot be ruled out. Although there are allegations in the FIR and statement of the victim that applicant had established physical relation with the victim, that can be considered during the course of trial. Even otherwise, the applicant is behind bars for more than one year. Trial is at nascent stage. In view of peculiar circumstances as noted above, a case is made out for grant of bail. Hence, the following order.

: O R D E R :

- (I) The application is allowed.
- (ii) Applicant – Sunil @ Akash Anna Bankar, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount each, in connection with Crime No. 408 of 2022 registered with Satara Police Station, District Aurangabad, for the offences punishable under Sections 376(3), 376(2)(N), 506 of the IPC and U/sec. 4,8, and 5(J)(2)(L), 6 of POCSO Act on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend each and every effective date before the trial court.
 - (iv) As Mrs. Renuka Ghule – Palve is appointed to represent respondent No.2 through Legal Aid Committee, her remuneration be paid through Legal Services Sub-Committee, Aurangabad.
 - (iv) The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-