



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 BAIL APPLICATION NO. 136 OF 2024

Pradip Suka Koli

VERSUS

The State of Maharashtra and others

...

Advocate for Applicant : Mr. S. V. Deshmukh h/f Mr. H. D. Patil

APP for Respondent Nos. 1 and 2: Mr. Mukesh K. Goyanka

Advocate for Respondent No.3 : Ms. Shaikh Afreen Fatima

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 7th MAY, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 95 of 2023 registered with Savada police station, District Jalgaon for the offences punishable under Sections 376 (AB) of the I.P.C. and Section 4 of Protection of Children from Sexual Offences Act, 2012. His application with similar prayer below Exh. 3 in Special Case No. 77 of 2023 came to be rejected by the learned Additional Sessions Judge, Bhusawal, vide order dated 01.08.2023.

2. It is averred in the report filed by the mother of victim child who was 10 years old that the applicant has inserted finger in the private part of the prosecutrix.

3. Learned advocate for the applicant submitted that the applicant is falsely implicated in the crime. The applicant has roots in the society. He will not flee away from the trial. The applicant has no criminal antecedents. The investigation is over and charge sheet is filed. It is lastly prayed to allow the application.

4. Learned A.P.P. for the respondent-State and the learned advocate Ms. Shaikh Afreen Fatima appointed to represent the cause of respondent No.2 strongly opposed the application and submitted that there is no reason for the child to allege anything against the applicant. The applicant has committed an aggravated sexual assault on child of 10 years old. Considering the seriousness of the case they prayed to reject the application.

5. Perused the charge sheet, particularly the report, the statement of victim child and the report of medical examination of the victim. The medical examination report of the victim does not disclose any injury sustained to her private part. The applicant has roots in the society. The custody of the applicant is not necessary. The trial will take a long period. As far as the apprehension of pressurizing the prosecution witnesses is concerned, the applicant can be directed not to enter in the village of the informant i.e. Thorgavhan, Tq. Raver, district Jalgaon, till the conclusion of the trial. Considering all these aspects, it would be proper to release the applicant, by imposing certain stringent conditions. Thus, the

application deserves to be allowed on the principle that the bail is rule and jail is exception. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 95 of 2023 registered with Savada police station, District Jalgaon for the offences punishable under Sections 376 (AB) of the I.P.C. and Section 4 of Protection of Children from Sexual Offences Act, 2012 be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.
 - b) The applicant shall not enter within the vicinity of village Thorgavhan, Tq. Raver, district Jalgaon till the conclusion of the trial.
 - c) If any breach of the above conditions are noticed by the trial court or the prosecution, the trial court is at liberty to cancel the bail of the applicant without reference to this Court.
6. The fees of learned advocate, Ms. Shaikh Afreen Fatima, appointed to represent the cause of respondent No.3 be paid by the High Court Legal Services Sub Committee, Aurangabad as per the Rules.

(SANJAY A. DESHMUKH, J.)