



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**947 BAIL APPLICATION NO. 238 OF 2024**

Mayur Ashok Karhale

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Wagh Rajendra H.

APP for Respondent/State : Mr.Satish A. Gaikwad

Advocate for Respondent No.2:Ms.Vaishali R. Kalyankar (Appointed)

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**CORAM : SANJAY A. DESHMUKH, J.**

**DATED : 12<sup>th</sup> APRIL, 2024.**

**PER COURT :-**

1. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No.194 of 2023 registered with Jawaharnagar Police Station, Aurangabad, for the offences punishable under sections 354-D, 452, 504, 506 of the Indian Penal Code, 1860 (For short, "the IPC") and under section 12 of the Prevention of Children from Sexual Offences Act, 2012 (For short, "the POCSO Act").

2. It is averred by the mother of the victim that her daughter is 14 years old, who is studying in 9<sup>th</sup> standard. The applicant – a 24 years boy is trying to develop forcible love with her daughter. He used to frequently come to the house of informant and trying to speak with her daughter. Even though he was given understanding not to

come to house of informant and he should not speak to her daughter, he used to give threats to them. He used to say that he likes her daughter and she should not intervene between them. 15 days before the incident, he went to the school of daughter of the informant and said that he was loving with her. The applicant tried to stalking behind the daughter of informant, when she used to go to school. Informant tried to convince the applicant and his family members and told them that age of her daughter is less and do not talk with her and follow her. Then the applicant said that she may go anywhere, he will bring her. On 01.08.2023 at about 8.30 p.m. the applicant came to the house of the informant illegally and said that he has love with her daughter, do not try to separate both of them. He caught hold hand of daughter of informant and took her near to him and said her to come with him to stay together. When the informant tried to rescue, he assaulted her and abused her. Therefore, on 2<sup>nd</sup> day, the informant lodged the report.

3. The learned advocate for the applicant submitted that the applicant is behind bars since last 9 months. The trial will take long period. The applicant has roots in the society and he will not flee away from the trial. He is ready to stay away from Aurangabad. He lastly prayed to allow the application.

4. The learned APP for the respondent-State strongly opposed the application and submitted that the applicant has criminal antecedents. The applicant will certainly commit same nature of the crime. It is lastly prayed to reject the application.

5. The learned advocate representing respondent no.2 submits that the applicant's overt act is very serious. He is involved in the serious crime. Considering the nature of the allegations and conduct of the applicant, if he is released on bail, he will certainly harass the daughter of the informant. He has caused lot of obstacles in her study. If he is released on bail, he will certainly trouble her. It is lastly prayed to reject the application.

6. Perused the charge-sheet. The following crimes are registered against the applicant since 2016 :-

(i) Crime No.228 of 2017 registered with Police Station, Jawaharnagar for the offence punishable under section 380 read with 34 of the Indian Penal Code.

(ii) Crime No.126 of 2016 registered with CIDCO Police Station for the offences punishable under sections 380 and 457 of the Indian Penal Code.

(iii) Crime No.239 of 2016 registered with Police Station, Jawaharnagar for the offence punishable under section 122 of the Maharashtra Police Act.

- (iv) Crime No.638 of 2017 registered with Kranti Chowk Police Station for the offences punishable under sections 380, 457, 511(5) of the Indian Penal Code.
- (v) Crime No.74 of 2017 registered with CIDCO Police Station, for the offences punishable under sections 380, 454, 457 of the Indian Penal Code.
- (vi) Crime No.21 of 2021 registered with Police Station, Jawaharnagar for the offence punishable under section 379 of the Indian Penal Code.
- (vii) Crime No.215 of 2019 registered with Police Station Jawaharnagar for the offence punishable under section 142 of the Maharashtra Police Act.

7. Thus the applicant has criminal antecedents. His overt act is very serious and possibility of happening of such incident with the daughter of informant cannot be ruled out. Though, the applicant has roots in the society, he will certainly pressurize the prosecution witnesses and tamper the evidence. Considering all these aspects, particularly the object of POSCO Act, and law laid down by the Hon'ble Apex Court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559*** ***Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684***, there is possibility of happening of such incident again and again, the applicant is not entitled for bail on the principle that bail is rule and jail is exception. The application, therefore, deserves to be rejected. It is rejected accordingly.

8. The Special Court is directed to hear and decide the Special Case No.395 of 2023, as expeditiously as possible and in any case within six months from today. The Special Court is further directed to decide the case in literal sense of word session. Needless to mention, session means once it is started, it should not be stopped till it is concluded. The Special Court is directed to keep the matter at least twice or thrice in a week. If the trial is not concluded within six months, the applicant is at liberty to file the application for granting bail before the trial Court.

9. Fees of Ms.Vaishali R. Kalyankar, learned advocate appointed to represent cause of respondent no.2 be paid through the High Court, Legal Services Sub-Committee, Aurangabad, as per the schedule and rules.

**(SANJAY A. DESHMUKH, J.)**

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