



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

BAIL APPLICATION NO. 248 OF 2024

VISHAL BHAGWAN @ PRABHU SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Dinkar K. Dagadkhair
APP for Respondents : Mr. D. J. Patil

...
WITH BAIL APPLICATION NO. 279 OF 2024

SANTOSH S/O. SAHEBRAO SONWANE @ NAIK
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. S. G. Bobade
APP for Respondents : Mr. D. J. Patil

...

CORAM : S. G. MEHARE, J.

DATE : 22-07-2024

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondents.
2. The applicants seek bail in C.R.No.157 of 2023 registered with Devgaon Rangari Police Station, District Aurangabad, for the offences punishable under Sections 376(2)(f), 376(2)(h), 376(2)(d), 323 and 506 read with Section 34 of the Indian Penal Code.
3. Applicant Santosh is brother of the mother-in-law of the victim. Applicant Vishal is his brother-in-law. It has been alleged that the sister of applicant Santosh, was suffering from mental illness. Hence, to see her, both accused went her home. That

time, the victim was present in the house. Both accused with ill intention asked to Alkabai to go for some work. She went away. Thereafter, the applicants have committed sexual assault with the victim one after another. The report was lodged on next day of the incident.

4. Learned counsel for the applicants submits that in any event the incident is probable. The mother-in-law of the victim was suffering from mental illness; she was not able to obey the command of the applicants to go away for work. Applicant Santosh has to take money from the husband of victim which was handed over to him. Her husband was avoiding to pay the money, the false allegations have been levelled against them. There was no evidence of sexual assault. Nothing has been found on the clothes of the victim and the applicants. She was pregnant of around four months. Considering the allegations levelled against the applicants, she must have suffered some injuries, atleast resistance marks, those are also absent.

5. Learned A.P.P. for the State opposed the application. He argued that a woman has no reason to make such a wild allegations that may put stigma on her life. The applicants took the advantage of the situation. The mother-in-law was suffering from mental illness. The presence of the applicants on the spot of the incident has not been denied. Hence, they may not be granted bail.

6. Reading the first information report, anybody would believe that serious offence has been committed. If the first information report is read minutely, it may raise a doubt about happening of the incident as raised by the learned counsel for the applicant. It has been mentioned that with an ill-intention, mother-in-law was asked to go out and, subsequently, it was stated that she narrated the incident to her but she was not able to understand. The prosecution has no corroborative evidence. Therefore, though the offence which apparently appears serious, the applicants have good case for bail. Hence, the order:-

ORDER

- i) Bail Applications are is allowed.
- ii) Applicant Vishal Bhagwan @ Prabhu Sonwane and applicant Santosh s/o. Sahebrao Sonwane @ Naik be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount each, in the above crime for the aforesaid offences, on the conditions that,
 - (a) They shall not enter village where the victim is residing and not contact her in any mode or manner till conclusion of the trial.
 - (b) They shall attend the trial on each and every effective date.

(S. G. MEHARE, J.)