



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 BAIL APPLICATION NO. 290 OF 2024

Ritesh Arun Chavhan

VERSUS

The State of Maharashtra and another

...

Advocate for Applicant : Mr. Sandip P. Rathod
APP for Respondents: Mr. Mukesh K. Goyanka
Advocate to assist the A.P.P. : Ms. Megha Mali

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 6th MARCH, 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. 915 of 2023 registered with M.I.D.C. Waluj police station, District Chhatrapati Sambhajinagar (Aurangabad) for the offences punishable under Sections 363, 366-A, 376(2)(N)(I) of the I.P.C. and Sections 8, 12 and 17 of the Protection of Children from Sexual Offences Act. His application with similar prayer bearing criminal bail application No. 34 of 2024 came to be rejected by the learned Additional Sessions Judge, Vaijapur, vide order dated 01.02.2024.

2. It is averred in the report that the applicant called the prosecutrix, who is 15 years old, at Pune alongwith her friend. Accordingly, they went to Pune. There, the prosecutrix met this

applicant, who was alongwith one Shubham Dhanekar. For some days, two victim girls resided in the house of this applicant. Thereafter, the prosecutrix in this crime met with co-accused Shubham Dhanekar and they had sexual intercourse there. Thereafter, report was lodged.

3. Learned advocate for the applicant submitted that the applicant has roots in the society, he will not flee away from trial, the trial will take a long period, the practical investigation is over. He therefore prayed for allowing the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application. Learned advocate appointed for respondent No.2 also strongly opposed the application and submitted that the applicant is wire puller in this crime. He called the prosecutrix and another victim girl at Pune and facilitated the commission of crime under the POCSO Act by knowing the fact the prosecutrix was 15 years old. Therefore, it is lastly prayed to reject the application.

5. Perused the papers of investigation. The statements of witnesses are recorded. Medical examination of the prosecutrix is conducted. The custody of the applicant is not required further. The applicant has roots in the society. No doubt, the applicant is prosecuted in another case in which the prosecutrix is also below the age of 17 years for which separate crime is registered against him.

However, considering his role in this case that he abetted for commission of said crime and that he has roots in the society, he will not flee away from trial, the trial will take long period and also considering the ratio laid down in the case of **S. Varadrajan vs. State of Madras reported in AIR 1965 SC 942**, the application deserves to be allowed on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 915 of 2023 registered with M.I.D.C. Waluj police station, District Chhatrapati Sambhajinagar (Aurangabad) for the offences punishable under Sections 363, 366-A, 376(2)(N)(I) of the I.P.C. and Sections 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 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 prosecution witnesses, in any manner.
 - b) The applicant shall not enter in village Jogeshwari, Tq. Gangapur, district Chhatrapati Sambhajinagar (Aurangabad) till the conclusion of trial.
 - c) If any breach of the above conditions is noticed by the

trial court, 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. Megha Mali, appointed to represent respondent No.2, be paid as per the fees of schedule maintained by the High Court Legal Services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

rlj/