



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 BAIL APPLICATION NO. 325 OF 2024

1. AKSHAY ARJUN PHAPAL
2. AMOL PRABHAKAR PHAPAL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. V. D. Salunke h/f Mr. Salunke
Mayur Vasant.

APP for Respondent-State : Mr. A. S. Shinde.

Advocate for Respondent No.2 to assist APP : Ms. Mayuri
Kasturkar (Appointed Through Legal Aid).

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CORAM : S. G. MEHARE, J.
DATE : 28.03.2024

PER COURT :-

1. Heard the learned counsel for the applicants, learned APP for the respondent-State and the learned counsel for respondent No.2/Victim.

2. This subsequent bail application has been filed on the ground that applicants revealed the *modus operandi* of the family of the complainant. It is the submission of the learned counsel for the applicants that the family of victim traps the persons and then register a false crime against them. After registering the crime, the family of the victim starts extracting the money and turn hostile during the trial. On similarly

situated facts, co-accused has been released on bail. Hence, bail application be allowed.

3. Learned counsel for the victim submits that the victim is a minor. Her statement under Section 164 of the Cr.P.C. has been recorded. *Prima facie* serious crime has been committed. The trial is likely to commence. She prays to reject the bail application.

4. Learned APP also strongly opposed the application. He would contend that the facts of that earlier case and the case at hand are different. The so called conduct of the family of the victim should not affect her right. She is a minor girl. A serious offence has been committed with her. The applicant may tamper with the prosecution witnesses. Considering the gravity of the offence and no change in circumstances, the application may be rejected.

5. Perused the papers. Similarly situated co-accused has been granted bail. This Court has observed the submissions of co-accused Balu while deciding his bail application on 09.11.2023. The applicants are also claiming the bail on the same facts which they revealed subsequent to the rejection of their earlier bail application. Considering the *modus operandi* of the family of the victim, the co-accused has been granted

bail. Therefore, the applicants deserve bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant Nos.1. **AKSHAY ARJUN PHAPAL** and **2. AMOL PRABHAKAR PHAPAL** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of like amount each, in Crime No.230 of 2022, registered with Police Station Dindrud, District Beed, for the offences punishable under Sections 376-D, 506 read with Section 34 of the IPC and Sections 3(2)(V), 3(1)(w)(i), 3(1)(w)(ii) of the SC and ST (Prevention of Atrocities) Act and Sections 4, 6 and 10 of the POCSO Act, on the following conditions :
 - (a) The applicants should not tamper with the prosecution witnesses.
 - (b) They should not contact the victim or family members in any mode or manner till the conclusion of the trial.
 - (c) They should attend the trial on each and every effective date.

- (d) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to advocate Ms. Kasturkar as per the schedule.

(S. G. MEHARE, J.)

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vmk/-