



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 BAIL APPLICATION NO. 335 OF 2024

Vishal Bhaskar Kamble

VERSUS

The State of Maharashtra and another

...

Advocate for Applicant : Mr. More P. P.

APP for Respondent No.1: Mr. Satish A. Gaikwad

Advocate for Respondent No.2 : Mr. Pawan A. Salve,

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 28th 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. 10 of 2024 registered with Tembhurni police station, District Jalna for the offences punishable under Sections 363, 376(2)(J)(N), 354, 323 of the I.P.C. and under Sections 4, 8, 12, and 17 of the Protection of Children from Sexual Offences Act, 2012. His application with similar prayer bearing criminal bail application No. 98 of 2024 came to be rejected by the learned Additional Sessions Judge, Jalna vide order dated 5.2.2024.

2. The informant is the father of 16 years old girl. He alleged that on 12.1.2024 his daughter was not found in the house. Therefore, he lodged report. His daughter was found on 18.1.2024. It was revealed that the applicant took her away. The applicant was

arrested. When the statement of the girl was recorded, she stated that there was no such physical relationship between them.

3. Learned advocate for the applicant submitted that after the daughter of the informant was convinced by her family members, she gave statement that the applicant committed sexual assault i.e. rape on her. There is no such evidence. Learned advocate for the applicant further submitted that the applicant has roots in the society, he will not flee away from trial. He will not enter in the village Tapovan Gondan, Tq. Jafrabad, district Jalna, till conclusion of trial. The practical investigation is over. The further custody of the applicant is not necessary. The applicant will attend the trial regularly. He is relying upon the judgment in the case of ***Sunil Mahadev Patil vs. State of Maharashtra reported in 2016 ALL M.R. (Cri.) 1712*** and in the case of ***Faizan Wahid Baig vs. State of Maharashtra***, bail application No. 3372 of 2021 decided by order dated 15.11.2022 (modified by order dated 24.11.2022). He therefore prayed for allowing the application.

4. Learned A.P.P. for the respondent-State and learned advocate for respondent No.2 have strongly opposed the application and submitted that the applicant is involved in the serious crime. He will certainly pressurize the daughter of the informant. They are resident of one and the same village. Considering serious nature of the crime, they lastly prayed to reject the application.

5. Perused the papers of investigation, particularly the report, statements of witnesses and the history of medical examination. It appears that the daughter of the informant is silent about the sexual assault. In view of the ratio laid down in the judgment of this Court in the case of ***Sunil Mahadev Patil (cited supra)***, so also the age of the applicant and the daughter of the informant, without entering into the merits of the case at this stage, it would be proper to release the applicant on bail because the applicant has roots in the society, his custody is not necessary for further investigation. The trial will take a long period and the practical investigation is over. In the peculiar facts of this case and considering all these aspects, the applicant is entitled for bail on the basis of principle that the bail is rule and jail is exception, the application deserves to be allowed on some stringent conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 10 of 2024 registered with Tembhurni police station, District Jalna for the offences punishable under Sections 363, 376(2)(J)(N), 354, 323 of the I.P.C. and under Sections 4, 8, 12, and 17 of the 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 into village Tapova Gondhan, Tq. Jafrabad, district Jalna and the village Isapur Chikhli, Tq. Jafrabad, district Jalna, which is the village of the maternal uncle of the daughter of informant, till conclusion of trial.
- c) If any breach of the above conditions is brought to the notice of the trial court either by the prosecution or the informant, the trial court is at liberty to proceed further for cancellation of bail of this applicant without reference to this Court.

(SANJAY A. DESHMUKH, J.)

rlj/