



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

963 BAIL APPLICATION NO. 380 OF 2024

SHAIKH MUSTAFA SHAIKH CHAND PASHA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Santosh C. Bhosle.
APP for Respondent/State : Mr. R. P. Gaur.
Advocate for Respondent No.2 : Mr. Prasanna Chavan. (Appointed)

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 26th July, 2024.

P.C.:

. The applicant is seeking regular bail in Crime No.231 of 2023, registered with Himayatnagar Police Station, District Nanded, for the offences punishable under Sections 363, 354-D, 376(2)(J)(N), 366 and 506 of Indian Penal Code and under Sections 4, 11(4), 12, 17 and 21 of the POCSO Act.

2 It is the prosecution's case that the informant lodged complaint with the police stating that his daughter aged 17 years was kidnapped by accused No.1. In investigation, the police arrested the applicant. The allegations against the applicant are that when accused No.1 and the victim were on run, the applicant provided them a room at Hyderabad to stay and in the said room, accused No.1 sexually assaulted the victim.

3 It is the contention of the learned counsel for applicant that the applicant has been falsely implicated in this case. The applicant was not aware if the victim was below 18 years of age. In good faith he had provided the room to accused No.1 and the victim. The learned counsel further submitted that in the statement under Section 164 of the Cr.P.C. recorded before the learned Magistrate, the informant has not stated anything against the applicant. The learned counsel further submitted that since more than eight months the applicant is behind bar. The investigation is completed. Charge-sheet has been filed. Hence, he requested to allow the application.

4 It is the contention of the learned APP alongwith the learned counsel appointed for respondent No.2 that accused No.1 had kidnapped the victim from her house. He sexually assaulted her on various occasions. He was aware that the victim was below 18 years of age. When they went to Hyderabad, there the applicant provided them a room to stay. While providing the room, the applicant told the owner of that house that accused No.1 and the victim are his brother and sister-in-law. The applicant lied to the owner of the house. It shows the involvement of the applicant in the crime. He has abetted the crime of accused No.1. If the applicant is released on bail, he may abscond. Hence, they requested to reject the application.

5 I have heard all the learned counsel. Perused the charge-sheet. The allegations against the applicant are that he provided a room to accused No.1 and the victim when they went to Hyderabad. In the statement under Section 164 of the Cr.P.C. recorded by the learned Magistrate, the victim has not stated anything against the applicant. It does not appear from the charge-sheet that the applicant was aware that the victim is below the age of 18 years when accused No.1 and the victim went to Hyderabad. The applicant is behind bar more than eight months. Investigation is completed. Charge-sheet has been filed. Considering this fact, further detention of the applicant is not required and I pass the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in Crime No.231 of 2023, registered with Himayatnagar Police Station, District Nanded, for the offences punishable under Sections 363, 354-D, 376(2)(J)(N), 366 and 506 of Indian Penal Code and under Sections 4, 11(4), 12, 17 and 21 of the POCSO Act, be released on bail on executing personal bond in the sum of Rs.20,000/- with one surety of the like amount on the following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with

the evidence, in any manner.

- b) The applicant shall attend the concerned police station as and when required by the investigating officer.

III. The fees of the appointed counsel is quantified as Rs.5,000/- and it is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

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