



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 432 OF 2024

Prabhakar Laxman Pawar

versus

The State of Maharashtra and another

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Advocate for the applicant: Mr. Aniket V. Deshmukh
A.P.P. for the respondent No.1 State: Mrs. Pratibha J. Bharad
Advocate for respondent No.2:Mr. A.A.Jagatkar

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 19th 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. 304 of 2023 registered with Mehunbare police station, District Jalgaon for the offences punishable under Sections 376, 354-A, 354-D, 509, 506 of I.P.C. His application with similar prayer below Exh. 3 in Sessions Case No. 29 of 2024 came to be rejected by the learned Additional Sessions Judge, Jalgaon vide order dated 22.2.2024.

2. The informant is 19 years old girl, she averred in the report, dated 20.11.2023, that she was residing with her parents. Her parents are labourers. She was doing the labour work with them. Entire family was working in the agricultural land of the applicant. In the year 2022 when she was working in the agricultural land of the applicant, he caught hold her hands and told her that he want to talk

with her alone. But she had refused for the same. The applicant was making phone calls to her and forcing her to meet him. Once the wife of the applicant directed the prosecutrix to go to bring water bottle. She went to the farm house of the applicant, at that time he caught hold her and committed rape on her against her wish. At that time, she was 17 years old. He threatened to kill her and her parents. Therefore, she could not disclose that fact to anybody. The applicant used to make phone calls to her on her mobile. He used to call her frequently to the agricultural land and house and used to commit sexual intercourse with her frequently. She did not disclose it to anybody. She was under the impression that the same will be stopped after her marriage.

3. In December 2022, when the prosecutrix was going to college, the applicant forcibly took her to lodge a report and committed sexual intercourse with her. He snapped her photographs and recorded the video of that episode. When she refused, he threatened to kill her. Her engagement was performed in February, 2023. Thereafter, again the applicant in his Indica Car came to S.T. Bus stand at Ravi, when the prosecutrix was coming from college, he threatened that he will make viral that video shooting. He again took her to the lodge and committed sexual intercourse with her.

4. After the marriage of prosecutrix was performed on 16.5.2023, again the applicant sent message on Instagram that he wanted to

visit her. She requested him that now she is married and do not break up that marriage. Thus, the applicant threatened that he will send that video to her husband. Therefore, in between July 2023 to 15.8.2023, he took her to the lodge behind Ravi college and committed sexual intercourse with her. The applicant used to make phone calls to her frequently and that fact was noticed by her husband and therefore, her husband expelled her from his house. In September, 2023, her divorce took place and thereafter, the applicant did not contact her.

5. When the second marriage of the prosecutrix was settled, the applicant made phone calls to the mediator Abasaheb Jagannath Pawar and told him that he had illicit relations with the prosecutrix. He also told him that he is having obscene photos and video of the prosecutrix. He thus, broke the second marriage also. The applicant under the influence of liquor used to come to the house of the prosecutrix and used to threat her. Therefore, the informant lodged the report.

6. Learned advocate for the applicant submitted that the applicant is falsely implicated in the crime when the parents of the prosecutrix assaulted the applicant and his family members, a report was lodged against them under Section 324 of I.P.C.. Now matter has been settled and the compensation of Rs.5,00,000/- is paid to the prosecutrix. Today, the prosecutrix has filed affidavit that the matter

has been settled and further stated that an amount of Rs.5,00,000/- is received by her towards marriage and for future expenses. The said affidavit is taken on record and marked as "Y-1" for identification. Learned advocate for the applicant therefore, submitted that it is a case of consensual sexual relations. He prayed for granting bail.

7. Learned advocate representing for the prosecutrix submitted that the matter is settled between the applicant and the prosecutrix, not only about this case but the case which is registered against the family members of the prosecutrix for assaulting the applicant. He submitted to grant bail to the applicant.

8. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that at the time of incident, the prosecutrix was child as defined in POCSO Act. The school leaving certificate of the prosecutrix shows her date of birth as 21.06.2004. There is ample evidence against the applicant. Learned A.P.P. lastly submitted that considering serious nature of the crime, the application be rejected.

9. Perused the charge sheet, particularly, the report and the statements of witnesses. The applicant has roots in the society, he will not flee away from the trial, the trial will take a long period, therefore, without adverting to the merits of the case, considering the

facts and circumstances of the case and the prosecutrix has filed an affidavit, as above, 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. 304 of 2023 registered with Mehunbare police station, District Jalgaon for the offences punishable under Sections 376, 354-A, 354-D, 509, 506 of I.P.C. 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 pressurize or contact in any way the prosecutrix or any of the witnesses and her family members.
 - b) The applicant shall not misuse the photographs of the prosecutrix or video shooting, in future.
 - c) If some misuse of the photographs of the prosecutrix or video shooting is noticed or any witness is pressurized, the trial court is at liberty to proceed to cancel the bail granted to this applicant in future without reference to this Court.
 - d) Respondent No.2 to submit receipt of fixed deposit of Rs.2,00,000/- (Rupees Two lacs) in her name and Rs.1,00,000/- (Rupees One lac) in her father's name, within two weeks from today.

10. It is made clear that this order shall not be treated as precedent as it is passed in peculiar set of facts.

(SANJAY A. DESHMUKH, J.)

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