



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

14 BAIL APPLICATION NO. 461 OF 2024

Akshay Balkisan Jadhav.

... Applicant

Versus

1. The State of Maharashtra.
2. XYZ.

... Respondents

...
Advocate for Applicant : Mr. Dnyaneshwar Bhaurao Pokale.
APP for Respondent/State : Mr. Satish A. Gaikwad.
Advocate for Respondent No.2 : Ms. Ashwini A. Lomte. (Appointed).

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 08th April, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.4 of 2024, registered with Wadwani Police Station, District Beed, for the offences punishable under Sections 307, 354, 354(A), 354(D), 506, 279, 337 and 338 of the Indian Penal Code and under Sections 8 and 12 of Protection of Children From Sexual offences Act, 2012.

3 It is averred in the report by 17 years old victim girl child

that she used to go to attend the college by bus. That time, the applicant used to keep watch on her and used to follow her smile. On 21st December, 2023, one of the friend of informant told the informant that the applicant said her that he is loving the informant. But the informant said that she is not interested in the applicant and she do not want to talk with him. On 4th January, 2024, the applicant followed her school bus. When she left that bus and proceeding by foot, the applicant caught hold her hand and said that he wanted to talk her. She said that she do not want to talk with him. Then the applicant proceeded ahead with his motorcycle angrily. That time, the applicant said the her that you come to the college tomorrow I will see you and then he went away. She told that incident to her parents. On 5th January, 2024, when the informant was proceeding for practical of the science subject to the college and while coming back, the applicant followed her and gave dash of his motorcycle to her. She fell down and sustained injuries to her upper side of eye, right elbow, left wrist fracture and left knee. Therefore, the report was lodged on second day i.e. on 6th January, 2024.

4 The learned counsel for applicant submitted that it is a case of love affair. The applicant is falsely implicated in the crime. He pointed out the WhatsApp chatting, Instagram chatting and video call details between the applicant and the informant. It was of December, 2023. He submitted that the applicant has roots in the society. He has

no criminal antecedents. The trial will take long period. It is lastly prayed to allow the application.

5 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in serious crime. The applicant tried to establish forceful love affairs with the informant. If the applicant is released on bail, considering his conduct that he drove the motorcycle on the person of informant, the possibility of harassing and pressurizing the informant cannot be ruled out. The learned APP pointed out the injury certificate of the informant showing that the informant sustained three injuries with fracture of left distal radial end. The learned APP submitted that the conduct of this applicant shows that he is not entitled for bail. It is lastly prayed to reject the application.

6 The learned appointed counsel for respondent No.2 pointed out that the applicant is involved in serious crime and if he is released on bail, then the informant has to remain under constant fear of any such violence and criminal act on the part of this applicant. It is lastly prayed to reject the application.

7 Perused the papers of investigation, particularly, the report and injury certificate of the informant. The age of the informant is not disputed. The injury sustained to the informant materially corroborates that the applicant drove his motorcycle on her person and she

sustained injuries. Though the learned counsel for applicant pointed out some WhatsApp chatting, Instagram chatting and video call details, to show love is not an offence, however, one can love and also withdraw from loving if the conduct of one of the lover is not found proper. The informant has right to refuse to continue to love and therefore, she might have refused to continue to love. It is not that once love has been started, permanent licence is given to the lover to continue to love. Considering these aspects, though there is WhatsApp chatting, Instagram chatting and video call details between the applicant and the informant, on that basis the bail cannot be granted to the applicant. It is because his overt act is very serious that he drove motorcycle on the person of informant. Considering all these aspects, the application deserves to be rejected. The bail application is, therefore, rejected.

8 The print of WhatsApp chatting, Instagram chatting and video call details submitted today by the learned counsel for applicant is to be kept in the closed envelop. The applicant and his relatives are directed not to show or display the said WhatsApp chatting, Instagram chatting and video call details to anybody and if it is noticed, the investigating officer may proceed further as per the provisions of law against the applicant or anyone, who is going to disclose or utilize those WhatsApp chatting, Instagram chatting and video call details, except in case of use of it for the purpose of defence in the trial or for

bail. The Trial Court is also directed to consider this aspect and point out it to the investigating officer concerned.

9 It is made clear that the above observations are *prima-facie* in nature for the purpose of deciding the present application only. The Trial Court shall not get influenced by the same during trial.

10 The fees of Ms. Ashwini A. Lomte, appointed counsel be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules and schedule.

[SANJAY A. DESHMUKH, J.]

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