



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 504 OF 2024

Sanjay Macchindra Mohite

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. X

..RESPONDENTS

Advocate for Applicant : Mr. Salunke Sudarshan J.

APP for Respondent/State : Mrs.Dipali S. Jape

Advocate for respondent no.2 : Mr.Jitendra S. Jain (appointed)

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 3rd MAY, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No.351 of 2023 registered with Police Station, Paithan, Dist. Aurangabad, for the offences punishable under sections 376(2)(j)(n), 376(3), 354(D), 506, 34 of the Indian Penal Code, under sections 4, 6, 8 & 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 3(2)(v), 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is averred in the report by the girl child of 15 years old

that the applicant at the time of Diwali festival at about 1.00 p.m. called the informant by signal. He said that he likes her. Then he told her to come at *Mala*. One day before the Diwali, the applicant took her to *Mala*. In the hut of tin shed of *Mala*, he committed aggravated sexual assault on her. He threatened her that he will eliminate her if she told the said incident to anybody. Therefore, she did not tell that incident to anybody. It is further averred in the report that on 02.12.2023, when her mother and brother went to Paithan for some work that time, co-accused Vilas Mule came to her house and told her that they have to go to bring the Mosambi from the agricultural land of this applicant. He took her to the agricultural land of this applicant at about 11.30 a.m. There co-accused committed aggravated sexual assault on the informant. The applicant was standing outside the hut. When they were coming back, that time informant's brother came there on motorcycle. He scolded the applicant and the co-accused and thereafter the report was lodged against this applicant.

3. The learned advocate for the applicant submits that the applicant is falsely implicated in the crime. The informant had not stated the name of this applicant during her medical examination. He pointed out the statement of Walmik Balu Jadhav that on 02.11.2023, the prosecutrix was walking alone near to canal. He felt that she is proceeding to commit suicide, therefore, he made phone call to her

brother and he then came there. The learned advocate further pointed out the statements of other witnesses and lastly submitted that the applicant's alleged involvement in this crime is prima facie reasonably doubtful. Considering the fact that the applicant has no criminal antecedents, trial would take long period, the applicant has roots in the society, he lastly prayed to allow the application.

4. The learned APP for the respondent-State and the learned advocate appointed to represent the cause of respondent no.2 strongly opposed the application and submitted that the applicant is involved in the serious crime. 15 years old girl child is sexually assaulted. If the applicant is released on bail, he would take disadvantage and pressurize the prosecution witnesses. Considering the serious nature of the crime, they lastly prayed to reject the application.

5. Perused the charge-sheet, particularly the report, statements of the witnesses and the report of medical examination of the prosecutrix/informant. It was rough surface where alleged incident took place. It is not pointed out that any injury was sustained to the prosecutrix when alleged incident of aggravated sexual assault took place. There is no any injury sustained to the applicant. Apart from this, the applicant has roots in the society, he will not flee away from the trial and trial would take long period, the application deserves to be allowed on the principle that bail is rule and jail is

exception, on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No.351 of 2023 registered with Police Station, Paithan, Dist. Aurangabad, for the offences punishable under sections 376(2)(j)(n), 376(3), 354(D), 506, 34 of the Indian Penal Code, under sections 4, 6, 8 & 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 3(2)(v), 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 be released on bail on furnishing personal bond of Rs.25,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not enter in village Sonakwadi, Tq.Paithan, Dist. Aurangabad, till the conclusion of the trial.
- III. If any breach of the above conditions is noticed by the trial Court, the trial Court is at liberty to cancel the bail granted to this applicant without further reference to this Court.
- IV. Fees of Mr.Jitendra S. Jain, the learned advocate appointed to

represent the cause of respondent no.2 be paid through the High Court Legal Services Sub-Committee, Aurangabad as per rules and schedule.

(SANJAY A. DESHMUKH, J.)

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