



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 609 OF 2024

VIJAY DASHARATH PHAPAL
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Datta S. Kale

APP for Respondent No.1 : Smt. A. S. Mantri

Advocate for Respondent No.2 : Mr. D. R. Dhumal (Appointed)

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CORAM : S. G. MEHARE, J.

DATE : 23-04-2024

PER COURT :-

1. Heard learned counsel for the applicant, learned A.P.P. for respondent No.1 and learned counsel for respondent No.2.
2. The applicant seeks bail in C.R.0230 of 2022 registered with Dindrud Police Station, District Beed, for the offences punishable under Sections 376D, 506 read with Section 34 of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(v), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. Learned counsel for the applicant submits that similarly situated co-accused has been granted bail. The applicant has no role to play. However, he has been falsely implicated in the crime, intending to extract money. He is languishing in jail for long period. Nothing is to be recovered from him. Hence, he may be granted bail.

4. Learned A.P.P. for respondent No.1 and the learned counsel for respondent No.2/victim have strongly opposed the application. They have submitted that the applicant is the main culprit. It is a case of gang rape. A small child of 16 plus years has been physically exploited. *Prima facie* evidence is available against the applicant. Considering his role, he may not be granted parity.

5. Perused the chargesheet and the earlier orders granting bail. Comparing the role of other accused whom bail have been granted with applicant's role, *prima facie* there appears similarity. Hence, he deserves parity.

ORDER

- i) The application is allowed.
- ii) Applicant Vijay Dasharath Phapal be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.0230 of 2022 registered with Dindrud Police Station, District Beed, for the aforesaid offences, on the conditions that,
 - (a) He should not tamper with the prosecution witnesses.
 - (b) He should not contact the victim or her family members in any mode or manner till the conclusion of the trial.
 - (c) He should attend the trial on each and every effective date.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fee to the learned counsel appointed for respondent No.2/victim as per the schedule.

(S. G. MEHARE)
JUDGE