



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 BAIL APPLICATION NO. 848 OF 2024

BHAGA DAGA @ DNYANESWAR MAYCHE @ MALCHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocates for Applicant : Mr. Sanket Suryawanshi a/w Ms.
Suryawanshi Sanyukta Nitin.
APP for Respondent-State : Mr. S. M. Ganachari.
Advocate for victim/Respondent No.2 to assist APP : Mr. R. K.
Khandelwal – Appointed.

...

CORAM : S. G. MEHARE, J.
DATE : 05.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.16 of 2024, registered with Sakri Police Station, District Dhule, for the offences punishable under Sections 363, 376(D), 376(2)(J), 376(2)(N), 366, 506, 384, 386 read with Section 34 of the IPC and Sections 4 and 8 of the POCSO Act.
3. Victim was 17 years and 3 months old at the time of alleged incident. The prosecution has a case that one of the

co-accused had sexual relations with her. The allegations against the applicant were that under threat to make her relations with co-accused public, he extracted Rs.40,000/- from her. There are no allegations of sexual assault with the victim.

4. Learned counsel for the applicant submitted that at one place, the victim was stating that the applicant extracted Rs.40,000/- and in another statement, she stated that he extracted Rs.50,000/- from her. He submits that applicant has no role to play in the incident. He has been falsely implicated in the crime to make the offence serious.

5. Learned APP and learned counsel for the victim would submitted that that it is an offence under the POCSO Act. Section 7 of the said Act would attract. It is a conspiracy. All accused were knowing each other. They were systematically exploiting the victim. Therefore, it is not safe to grant the bail to the applicant. He also added that there is a great possibility of tampering with the prosecution witnesses. They prayed to dismiss the application.

6. Perused the papers. Initially, the father of the victim had lodged the missing report. Then, the victim was found. Thereafter, her statement was recorded, in which, she has barely stated against the applicant that he blackmailed her and

extracted Rs.40,000/-. However, nothing is recovered from him. Except, the bare words of the victim, there is no material with the prosecution to believe the story at this juncture. Considering the role attributed to the applicant and the probability of the defence, the Court is of the view that this is a fit case to exercise the discretion under Section 439 of the Cr.P.C. The apprehension of the prosecution may be guarded by imposing certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **BHAGA DAGA @ DNYANESWAR MAYCHE @ MALCHE** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall stay away from village Vijapur for two months from the date of his release.
 - (c) He shall attend the trial on each and every effective date.

- (iii) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to advocate Mr. Khandelwal as per the schedule.

(S. G. MEHARE, J.)

...

vmk/-