

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

BAIL APPLICATION NO. 982 OF 2024

Akash @ Arun Babu Patel

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Wakale Vijay Shivaji

APP for Respondent/State : Mr. D.J. Patil

Advocate for Respondent No.2 : Mr. V.B. Mantri

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CORAM : S.G. MEHARE, J.

DATED : JULY 18, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.1325 of 2023 registered with Rahuri Police Station, District Ahmednagar for the offence punishable under Sections 376(2)(i)(j), 376(2)(m), 376(2)(l), 376(2)(n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012.
3. The prosecution has a case that the applicant sexually assaulted a child of 2 and ½ years. The FIR reveals that initially, the victim could not disclose the applicant's name because she was afraid. The mother of the victim examined her private part and noticed that it was reddish. The medical evidence also supported the prosecution that there was redness to the private part of the victim. But when her parents made the inquiry in detail and expressed doubt against the

applicant, she expressed that the applicant was the person who had sexually assaulted her by nodding her head.

4. Learned counsel for the applicant has vehemently argued that since 2018, there has been a road dispute between the two families. Hence, the applicant has been falsely implicated in the crime. It was not possible for him to commit the offence in the house, which was a single-room house where his married sister was residing. The redness may be possible due to urine infection or any other reason. Therefore, the applicant cannot be roped into the crime. The medical evidence is silent about the case of redness. The applicant is a young boy of 21 years with no antecedents and may be granted bail.

5. Learned counsel for the victim and learned APP for the State argued that particular words of actual sexual assault could not be expected from a child of 2 and ½ years. Since there was a trauma on her mind, she might not have been able to disclose the name of the applicant immediately.

6. Whether the redness was caused by the infection or any other reason than the sexual assault is a matter of investigation on merit and recording the evidence before the Court. When the victim did not disclose the name, her mother just suggested to her whether the applicant had committed this act, and she nodded. Then the investigation was put into motion. Prima facie evidence is collected against the applicant. His defence appears to be not acceptable at this

juncture. The offence is serious. The victim is only 2 and ½ years old baby girl. It cannot be expected from her to implicate the applicant falsely in the crime. Considering the facts of the case cumulatively, the Court is not convinced that the applicant deserves bail. Hence, the application stands dismissed.

7. The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

**(S.G. MEHARE, J.)**