



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

BAIL APPLICATION NO. 989 OF 2024

ABHAY SHRIPATI KASHID
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Shardul G. Shinde

APP for Respondent No.1 : Mr. S. B. Narwade

Advocate for respondent No.2 : Mr. Chetan B. Choudhari

...

WITH BAIL APPLICATION NO. 988 OF 2024

PAWAN RAMESHWAR KALE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. C. C. Deshpande holding for
Mr. S. S. Rathi

APP for Respondent No.1 : Mr. S. B. Narwade

Advocate for respondent No.2 : Mr. Chetan B. Choudhari

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CORAM : S. G. MEHARE, J.

DATE : 22-07-2024

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for the respondent and the learned counsel for the victim. Affidavit of the victim is taken on record.

2. The applicants seek bail in C.R.No.0915 of 2023 registered with M.I.D.C. Waluj Police Station, Aurangabad, for the offences punishable under Sections 363, 366A, 376(2)(n)(i) read with Section 34 of the Indian Penal Code and Sections 4, 8, 12 and 17 of the Protection Of Children from Sexual Offences (POCSO) Act.

4. Reading the statement of the victim under Section 161 of Code of Criminal Procedure (for short, "Cr.P.C."), her statement before the Medical Officer and also the statement under Section 164 of the Cr.P.C., the learned counsels for the applicants submit that the statements of the victim are not consistent. As per her desire, she was making allegations against the persons on different stories. Considering her stay with the applicants, it is unbelievable that she was sexually assaulted by the applicants. She has also alleged against one another person against whom a separate crime has been registered. Both learned counsels for the applicants emphasized on the statements of the victim i.e. narration of the victim before the Medical Officer stating that she was forced to lodge the report against the applicants. Thereafter, the statement under Section 164 of the Cr.P.C. was registered. There is a great possibility of threatening the victim to give statements against the applicants before the Magistrate. The victim has sworn in an affidavit that she lodged report against the applicants under pressure of her family members.

5. Learned A.P.P. for the State submits that the statement under Section 164 of the Cr.P.C. would prevail over all other statements. The offence is serious. It is a matter of gang rape. A child of 15plus has been sexually assaulted. Hence, bail may not be granted.

6. Perusal of the record reveals a substance in the arguments of the learned counsels for the applicants.

7. The inconsistent statements of the victim is considered for granting bail. She has a stand that she lodged a report against the applicants under pressure of the family members. Before her statement under Section 164 of the Cr.P.C., she narrated the same facts before the Medical Officer. In view of the inconsistent statements and the facts which has been placed on record, the applicants deserve bail. Hence, the order :-

ORDER

- i) Bail Applications are allowed.
- ii) Applicants Abhay Shripati Kashid and Pawan Rameshwar Kale be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount each, in the above crime for the aforesaid offences, on the conditions that,
 - (a) They shall not contact the victim or her relatives in any mode or manner till conclusion of the trial.
 - (b) They shall attend the trial on each and every effective date.

(S. G. MEHARE, J.)