



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

BAIL APPLICATION NO. 1008 OF 2024

DATTA DHARMAJI ANKAMWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. S. S. Jadhav holding for
Mr. Granthi Manpreet Ajeet Singh
APP for Respondent No.1 : Ms. Vaishali S. Chaudhari
Advocate for Respondent No.2 : Ms. Mayuri Kasturkar
(Appointed Through Legal Aid)
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CORAM : S. G. MEHARE, J.
DATE : 04-09-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1 and the learned counsel appointed for respondent No.2.
2. The applicant seeks bail in C.R.No.31 of 2024 registered with Police Station Kinwat, District Nanded, for the offences punishable under Sections 377 of the Indian Penal Code and Sections 4(2), 6, 9(F), 12 of the Prevention of Children from Sexual Offences Act.
3. The applicant has a case that he was the Supervisor of the Residential School cum Hostel for Blinds. The allegations against him that on 02.02.2024 he did unnatural intercourse with the victim were incorrect. In the statement under Section 164 of the Code of Criminal Procedure ("Cr.P.C."), improvements were made

that said incident happened on 07.02.2024. Immediately on the day of the alleged incident the victim did not complain. It was transpired in the investigation that since 02.02.2024 to 07.02.2024, the victim was not in the hostel. Therefore, the date was deliberately changed.

4. It was argued for the applicant that his statement under Section 164 of the Code of Criminal Procedure was recorded after a month, wherein he has made wild allegations of sexual assault for five times. Such a statement is apparently after tutoring. The first information report about two crimes committed by two different. The last incident as per first information report was happened on 13.02.2024. However, since before it, the applicant was not the Supervisor of the Hostel. The victim made a complaint with his father for the first time on 13.02.2024. Hence, his father came there. He found nobody present in the hostel. So, he was enraged and booked the applicant being Ex-Supervisor as he was knowing him.

5. The applicant has been roped as an accused only for the reason that once upon a time he was a Supervisor of the Hostel for Blinds. Except the bare words, there was no evidence against him. The material investigation has been completed. He has no bad past. Hence, he may be granted bail.

6. The learned A.P.P. and the learned counsel for the victim have strongly opposed the application. They vehemently argued

that a blind child has no reason to lie against the applicant. There are serious allegations against him. He was the victim of the repeated sexual assault by the applicant. The medical papers support the prosecution. The offence is serious. From the belated statement under Section 164 of the Cr.P.C., it could not be inferred that he was tutored. The blinds have a special sense though could they could see. They are correctly identify the persons around them. Hence, the victim did not commit mistake in making allegations against the applicant. There are many other blind students in the Hostel/school. They also might have sexually assaulted. Hence, he may not be granted bail.

7. The facts as discussed above reveal that the allegations were against the applicant that he sexually assaulted the victim on 02.02.2024. However, from that date till 07.02.2024, the victim was not present in the hostel. The sexual assault by another co-accused was disclosed for the first time on 13.02.2024. That time, the applicant was not present there as he was not incharge of the Hostel. Except the bare allegations against the applicant and improved statements against him, nothing is to be recovered from the applicant. Since the father of the victim reached on the spot of the incident, he found nobody there. Naturally he was enlarged and blamed the responsible persons of the institution.

8. The learned APP and the learned counsel for the victim are correct that the offence is serious. Mere applying sections is not

the material to decide the gravity of the offence. The entire facts needs to be considered.

9. The facts as discussed above and the role attributed to the applicant shows that the evidence against the applicant is balanced. He has roots at his place of residence. He was not the in-charge of the Hostel on the date of alleged incident. After the incident, he has been removed from services. So there is least possibility of sexual assault with the other students. In the circumstances, the Court is of the view that his further detention would serve no purpose. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant – Datta Dharmaji Ankamwar be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime 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 other witnesses in any mode or manner till the trial is concluded.
 - (c) He should attend the trial on each and every date.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fees to the learned counsel appointed for respondent No.2/victim, as per the schedule.

**(S. G. MEHARE)
JUDGE**