



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

BAIL APPLICATION NO. 1047 OF 2024

YOGESH RAMA KHEMNAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Gulab B. Rajale
APP for Respondent No.1 : Mr. S. R. Wakale
Advocate for Respondent No.2 : Mr. Ravindra Narwade Patil
(Appointed through Legal Aid)

...
WITH BAIL APPLICATION NO. 1050 OF 2024

PRASHANT BHASKAR BHADANGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Gulab B. Rajale
APP for Respondent No.1 : Mr. S. R. Wakale
Advocate for Respondent No.2 : Mr. Ravindra Narwade Patil
(Appointed through Legal Aid)

...
CORAM : S. G. MEHARE, J.
DATE : 25-07-2024

PER COURT :-

1. Heard learned counsel for the applicants, the learned A.P.P. for the respondent No.1 and the learned counsel for respondent No.2.
2. The applicants seek bail in C.R.No.100 of 2024 registered with Ghargaon Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 376(3), 109, 305, 506 read with Section 34 of the Indian Penal Code and Sections 4, 8, 12, 17 and 21 of the Protection of Children from Sexual Offences Act.

3. The incident as allegedly happened in the pan shop of the main accused who took the assistance of the applicant Yogesh to lock the shutter of the shop from outside and another applicant Prashant asked to keep the watch. After the incident as per first information report, the victim narrated the incident to her mother and on the same day, she committed suicide. Mother kept silence for around 17 days and did not file the report. After 17 days, she narrated the incident to the police stating that immediately after the incident the victim stated the incident to her.

4. Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime. The said pan shop is located IN crowded locality, committing the crime is not possible. The explanation for delay in lodging the first information report is not satisfactory. Nothing is recovered from the applicants. They have no bad past. Hence, they may be granted bail.

5. Learned A.P.P. for the State and learned counsel for the victim argued that the offence is serious. A small child of 15 years 8 months old has been raped in the day light. The applicants assisted the main accused to commit the crime. Hence, they are also equally liable to be charged for the same offence. It has also been argued that the mother was in grief as her daughter suddenly committed suicide; hence, there was delay in lodging the first information report. They prayed to refuse bail.

6. No matter, how much a person in grief, he will not forget to report such a serious incident to police. The postmortem of the deceased was performed on the same day. There were no injuries to her external genitals. The incident was immediately disclosed to the mother and on the same day, the victim committed suicide. Whether the explanation for delay in lodging F.I.R. is satisfactory, is a matter of merit. The Court, at this juncture, has to examine the role attributed to the applicants and their detention. The alleged shop was in a complex. That may not be a ground to believe that the incident could not happen. Considering the role attributed to the applicants, nothing is to be recovered from them. *Prima facie* there is inordinate delay in lodging report. The applicants have no antecedents to their discredit. They are languishing in jail from 18 March 2023. For the above reasons, they deserve bail.

ORDER

- i) The applications are allowed.
- ii) Applicant - Yogesh Rama Khemnagar and Applicant - Prashant Bhaskar Bhadange, 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 tamper with the prosecution witnesses.
 - (b) They shall not threaten to any relative of the deceased
 - (c) They shall attend the trial on each and every effective date.

- iii) 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.)

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