



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 BAIL APPLICATION NO. 1143 OF 2024

DADARAO RAJARAM DHIVAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Adv. for Applicant : Mr. Savale Rahul Prabhakar (Through V.C.)

APP for Respondent/s-State : Mr. S. B. Pulkundwar.

Advocate for Respondent No.2 : Mr. S. D. Hiwrekar (Appointed
Through Legal Aid) - (Through V. C.).

...

CORAM : S. G. MEHARE, J.

DATE : 07.08.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent/s-State and learned counsel for the victim.

2. The applicant seeks bail in Crime No.178 of 2024, registered with Kannad City Police Station, District Aurangabad, for the offences punishable under Section 354-B of the IPC and Sections 8 and 12 of the POCSO Act.

3. The 11 years old girl has alleged against the applicant that he took her into bathroom and asked her to remove clothes. He hugged her. However, she bit him on his hand and rescued herself. The report was lodged on the second day.

Thereafter, one eye witness came forward corroborating the allegations of the victim.

4. The learned counsel for the applicant would submit that the applicant has been falsely implicated in the crime. He had no reason to commit the sexual assault with child of 11 years. The story of prosecution of having eye witness is false and concocted. No weapon is used in the crime. He is 74. Hence, he may be granted bail.

5. The learned APP strongly opposed the application. He would submit that the eye-witness corroborated the statement of the victim. The complaint of the victim inspires the confidence. She has no reason to implicate the applicant falsely. Considering the age of the victim, she needs protection. He referred to the spot panchnama and argued that it was possible to the eye-witness to witness the incident. The offence is serious.

6. The learned counsel for the victim also advanced the similar arguments as advanced by the learned APP. In addition, thereto, he argued that 11 years girl has no reason to implicate the applicant falsely. The incident is serious. If the applicant is released, the victim may be apprehended. The applicant is the neighbour of the victim.

7. Perused the application and the papers produced before the Court. The material evidence of bite injury has not been collected in the matter. Considering the spot panchmana, the story of eye-witnesses may not be believed at this juncture. The report was lodged belatedly. No weapon has been used. The material investigation has been completed. Therefore, he deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **DADARAO RAJARAM DHIVAR** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) He should not tamper with the prosecution witnesses.
 - (b) He should not enter village Kankawatinagar Sakhar Karkhana, Kannad till the charge sheet is filed.
 - (c) He should attend the Police Station as and when called on written notice by Investigating Officer till filing of charge sheet.

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

(S. G. MEHARE, J.)

...

vmk/-