



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1173 OF 2024

Shudhdodhan Jalba Khillare

VERSUS

The State Of Maharashtra And Others

Mr. S. J. Salunke, Advocate for the applicant

Mr. S. P. Sonpawale, APP for the respondent/State

Ms. Kalpana Sonpawale, Advocate for respondent No.3
(appointed)

CORAM : S. G. MEHARE, J.

DATE : 19th AUGUST, 2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned A.P.P. for the respondent/State and learned counsel for respondent No.3.

2. The applicant seeks bail in C.R. No.0544/2023 registered with Akhada Balapur Police Station, District Hingoli for the offences punishable under Sections 376, 376(1), 376(3), 354, 354-A, 452, 506 of the Indian Penal Code and under Sections 3, 4, 8 and 12 of the Protection Of Children from Sexual Offences (POCSO) Act.

3. The applicant has a case that he had been falsely implicated in the crime. No incident as alleged happened on

18/08/2023. On that date he went to Dumb and Deaf Vidyalaya Hadgaon, District Nanded with his sister. He has produced the certificate of the Headmaster and the CCTV footage. He submits that there were no signs of sexual assault. No report was lodged after the incident dated 18/08/2023. The applicant is a student and has a good future. To make the offence serious the allegation of sexual assault have been levelled against him. However, the medical report does not show such serious injuries to the private organ of the victim. Nothing is to be recovered from him. There are no antecedent to his discredit. Hence, bail may be granted.

4. Learned APP and learned counsel for the victim opposed the application. They submit that the prosecution has explained the delay for not lodging the report of the incident dated 18/08/2023. The narration as regards forceful sexual assault with a penetrative sexual assault is consistent. Her hymen was ruptured. She was just 12 years and 2 months old. The applicant was 21 years old. The offence was serious. Hence, he is not entitled to bail.

5. Perused the papers. It appears that a common report of two incidents was lodged. The first incident happened on 18/08/2023 and second was on 31/08/2023. The serious

allegation of penetrative sexual assault have been made. However, by the medical evidence does not support the allegations. *Prima facie* he has produced the material on record that on 18/08/2023 at the relevant time he was in the school of his sister. Whether the applicant could not be identified due to the blurred video is a matter of investigation. He has produced the certificate from the Headmaster of the said school that on 18/08/2023 he was in the school with his sister. There appears substance in the submission of the learned counsel for the applicant that it would be difficult to accept the case of penetrative sexual assault and at the most the offence under Section 7 of POCSO Act would be made which is punishable for maximum sentence for three years. Considering the allegations and material collected by the applicant, this Court is view that it is a fit case for bail. Hence, the order.

ORDER

- i) The application is allowed.
- ii) Applicant – Shudhdodhan Jalba Khillare 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 shall not enter village Dati, Tq. Kalamnuri, Dist. Hingoli for two months from the date of release.

(c) He shall attend the trial on each and every date.

iii) The Secretary, High Court Legal Services Authority, Sub Committee, Aurangabad do pay the legal fees to Advocate Ms. Kalpana Sonpawale as per the schedule.

[S. G. MEHARE, J.]

ssp