



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1192 OF 2024

Sanket Ashok Iware
VERSUS
The State Of Maharashtra And Another

Mr. R. R. Karpe, Advocate for the applicant
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. Pandurang Choukat h/f Mr. A. T. Kanawade, Advocate for
respondent No.2.

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.2.
2. The applicant seeks bail in C.R. No.0543/2023 registered with Karjat Police Station, Ahmednagar for the offences punishable under Sections 376(2), 376(2)(i)(J), 341, 506 of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences (POCSO) Act.
3. The allegations against the applicant are that on the date of incident the applicant took the victim to his home. Nobody was there at his home. He did sex against her desire and

promised to marry and after the incident he threatened her not to disclose incident to anybody. If she would disclose he would leave suicide chit in the name of her mother. After the incident she left his home. The peon of the school called her parents and she narrated the incident, which was different.

4. Learned counsel for the applicant submits that the applicant and the victim had acquaintance. They were meeting regularly. Her statement is inconsistent to the statement of the peon of the school. There are serious infirmities in the statements of witnesses. The medical evidence also does not support the allegations. The applicant had no bad past. The chemical analyzer report does not show the semen on her clothes. Therefore, there is serious doubt about the incident. In addition, he stated that the applicant was suffering from neurological disease, he was taken to the hospital for 16 times. His health is deteriorating day by day. Hence, he may be granted bail.

5. Learned APP and learned counsel for respondent No.2 submit that the victim was consistent as regards taking her to his house when nobody was there in his family. She was around 13 years and 11 months old at the time of incident. The applicant did forceful penetrative sex with her without her consent. The CA

report reflects the blood-stain on the underwears of the victim. The acquaintance with the victim is no good ground to grant the bail. The applicant was 19 years old. Reading the material as a whole there is evidence of forceful penetrative sexual assault. She was also threatened but on the same day she narrated the incident to her mother. The inconsistency in the statement of the peon does not make the prosecution case false. She might have been under the threat of the applicant. She might have tried to save him but there was no reason to have the blood stains on the underwears of the victim and quilt recovered from the house of the applicant. There is a possibility of apprehension due to the threats but when she was calm down she narrated the full facts.

6. Perused the papers that samples detected on the cloths, have been sent for DNA test. Unless something was there, there was no reason have the blood-stains quilt as well as the undergarments of the applicant and clothes of victim. Medical opinion also supports the allegations. Redness was present on her left side face. On fact which has been supported with the chemical analysis report and medical evidence the applicant has no good case for bail. As far as the health of the applicant is concerned, nothing is placed on record at this juncture that he

needs the assistance of his family member. On the contrary record shows that the jail authority took care of his health and took him for treatment to the proper hospital for 16 times. Therefore, the Court is not convinced that he deserve bail on medical ground. For the above reasons, the application stands dismissed.

(S. G. MEHARE, J.)

ssp