



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 BAIL APPLICATION NO. 1244 OF 2024

JITENDRA KARBHARI DHONDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. V. D. Salunke h/f Mr. Salunke
Mayur Vasant.

APP for Respondent/s-State : Mrs. M. N. Ghanekar.
Advocate for Respondent No.2 : Ms. Jamdhade Maya Ramrao,
Ms. Surekha R. Jamdhade, Ms. Smita R. Kasture.

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CORAM : S. G. MEHARE, J.

DATE : 07.08.2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and learned counsel for respondent No.2.

2. The applicant seeks bail in Crime No.216 of 2023, registered with Kinwat Police Station, District Nanded, for the offences punishable under Sections 376A, 376-B, 376-E, 376(2)(B), 376(2)(F), 376(2)(I), 376(2)(N), 354, 323, 506 of the IPC and Sections 4, 6, 8 and 12 of the POCSO Act and Sections 3(1)(W)(I), 3(2) and 3(V) of the SC and ST (Prevention of Atrocities) Act.

3. The learned counsel for the applicant submits that the report was lodged two months after the alleged incident. The

delay has not been properly explained. The applicant has no reason to take the victim with him. The medical report does not support the prosecution. Considering the nature of the incident, the allegations are improbable. The parents were silent for not coming the victim immediately after the tuition to home. The applicant has submitted to the police the entire facts. The applicant is a teacher by profession having no antecedents to his discredit. The investigation has been completed and nothing is to be recovered from him.

4. The learned APP and the learned counsel for the victim would argue that the victim was only 12 years old. The applicant was taking her with him under the pretext of tuitions. His abnormal conduct is sufficient to gather his ill intention to cause the sexual assault with her. The victim is a tribal. She was afraid of his threats. In the circumstances mere delay in FIR may not be a ground to grant the bail. The medial opinion is clear that the victim has been sexually assaulted. The witnesses were also there. The applicant kept the victim with him for two days and two nights and did forceful sex repeatedly. Her hymen was torn. Since he was examined after two months there were no possibilities of injuries on her person. The offence is serious. Hence, bail may not be granted.

5. Perused the charge sheet and considered the submissions of the respective learned counsels. Delay in such a case is subject to the explanation. The victim was just 12 when the incident happened. Probably she might have been apprehended of the threats of the applicant. In normal course of a life a teacher has no reason to take the students on bike for tuition classes. The specific allegations have been levelled against the applicant that he kept the victim for two days and did forceful sex. The medical officer, on the basis of the examination has formed an opinion that she has been sexually assaulted. The victim has no reason to lie against the teacher. Considering the material on record, it appears that *prima facie* evidence is against the applicant. Obviously, the offence is serious.

6. For the above reason, the Court is of the view that this is not a fit case for bail.

7. Hence, bail application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-