



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 BAIL APPLICATION NO. 1347 OF 2024

SANTOSH PARASRAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. D. M. Shinde h/f Mr. P. P. Uttarwar.
APP for Respondent/s-State : Mr. S. B. Pulkundwar.
Advocate for Respondent No.2 to assist APP : Mr. K. S. Patil h/f
Mr. Avinash Phad.

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CORAM : S. G. MEHARE, J.
DATE : 09.09.2024

PER COURT :-

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

2. The applicant is the real maternal uncle of the victim. He seeks bail in Crime No.64 of 2024, registered with Umri Police Station, District Nanded, for the offences punishable under Sections 376, 376(AB), 506 read with Section 34 of the IPC and Sections 4, 6, 12 and 17 of the POCSO Act.

3. It has been alleged against the applicant that he was directly and indirectly helping/assisting the main accused to commit the sexual assault with the daughter of the first

informant. The main accused was residing with the applicant for education. The victim narrated the incident to the first informant. She went to the house of the applicant and asked him what he had done with her daughter. The applicant told her that why she is making false allegations against his nephew.

4. Learned counsel for the applicant seeks bail on the ground that there is no direct evidence against him. He was just arraigned as an accused because the main accused was residing with him. The learned Additional Sessions Judge Bhokar did not consider that charge sheet gives a right to file fresh bail application. However, he has illegally held that there is no substance in the submissions as filing of the charge sheet does not in any manner lessen the allegations made by the prosecution, on the contrary, filing of the charge sheet establishes that after due investigation, the the investigation agency, having found materials, has placed the charge sheet for trial of the accused.

5. Learned APP and learned counsel for respondent No.2 has strongly opposed the application. They would submit that it was a case of abetment to commit a serious crime. The victim is a minor. Since the main applicant was residing in the house

of the applicant, it must be believed that he has the knowledge of the illegal acts of the main accused. Therefore, he may not be granted bail.

6. Perused the papers. The learned Additional Sessions Judge, Bhokar, in the order dated 24.06.2024 has observed that filing the charge sheet is not substantial change in circumstances. The view is against the mandate of law laid down by the Bombay High Court, at Principal Seat, in ***Laxman Irappa Kutti Vs. The State of Maharashtra ; 2004 Cr.L.J. 3502.*** Granting or refusing bail may be different but the applications filed after filing charge sheet should have been entertained on merit. Be that as it may, perusal of the record reveals that except the bare words of direct indirect support to the main accused, nothing is against the applicant. He is languishing in jail since 11.02.2024. In view of the allegations levelled against him, the Court is of the view that he deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SANTOSH PARASRAM JADHAV** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with

one solvent surety of like amount, on the following conditions :

- (a) The applicant should not tamper with the prosecution witnesses.
- (b) He should attend the trial on each and every date.

(S. G. MEHARE, J.)

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vmk/-