



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1522 OF 2024

SATISH BALU SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Nilesh S. Ghanekar
APP for Respondent No.1 : Mr. S. P. Sonpawale
Advocate for Respondent No.2 : Mr. Ashok D. Raut
...

CORAM : S. G. MEHARE, J.
DATE : 11-10-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1 and the learned counsel for respondent No.2.
2. The applicant seeks bail in C.R.No.199 of 2023 for the offences punishable under Sections 376, 376(2)(n), 376(2)(I), 376(3), 313, 315, 316, 318 read with Section 34 of the Indian Penal Code and Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.
3. The prosecution has a case that the applicant and the other co-accused were involved in the illegal termination of pregnancy. The victim was pregnant from one of the co-accused. Therefore, she was taken to one place. She was provided some pills. After

taking pills, she delivered a stillborn female child. The mother of the victim was also present there. Thereafter, she and her mother left for her maternal uncle's home. It has been alleged against that one Yogesh pressurized her not to stay there. Therefore, another co-accused took them to Pune. Her father had lodged their missing report. When they came to police station, the first information report was registered.

4. The applicant seeks bail on the ground that he was not named in the first information report and even in the first statement of the victim and other witnesses was not present there. However, he being the accused in identical crimes, has been arraigned as an accused afterthought. The material placed before the Court does not establish that the applicant had participated in the present crime. The learned Special Judge (POCSO), Beed, expressed an opinion that there are no ground to refuse bail due to his antecedents, but there are many crimes registered against the applicant before and after the present crime. Since he did not attend the trial already pending, a non bailable warrant issued against him. The surety was called. He deposited the surety amount.

5. On the basis of this fact, the Court relying on the case of ***Maulana Mohammad Amir Rashadi vs. State of U.P. and another, 2012 DGLS (SC) 35***, recorded in correct finding that

the possibility of fleeing away from the jurisdiction of the Court, is one of the grounds to reject bail application.

6. He submits that the applicant being entangled in the identical crimes and specially in this crime, he was trying for anticipatory bail in the present crime. He had an apprehension of his arrest. Therefore, he sought an exemption from attending the trial pending against him. However, the Court did not allow his exemption. Therefore, it cannot be said that, he was deliberately avoiding the trial. These peculiar circumstances were not considered. There were substantial reasons for his absence from the trial. It was not the case that for his absence, the trial was stalled. Therefore, the ratio of **Maulana** (supra) could not be applied. Since this matter is pending, his bail in another crime in which he was granted bail was forfeited, has been kept pending for decision, as the present application is pending. He submits that since there were antecedents to his discredit, the police are arresting him in every such identical crimes. In none of the crimes, he was named in the first information reports. Subsequently, the statements are created and he is arraigned as an accused. The victim even did not identify him in the test identification parade. Considering the material against him, he deserve bail.

7. The learned A.P.P. for the State submits that the offence is serious. The role attributed to the applicant has been *prima facie*

established. The son of one of the co-accused has stated that on the day of the incident, the applicant had transferred Rs.10,000/- to his account for his mother. He states that the applicant gave his mother a few pills. The acts of the applicant are harmful to the society. He has repeatedly involved in the identical crimes. Therefore, he does not deserve bail.

8. The learned counsel for the victim has vehemently argued that there is evidence that in a hut where the incident happened, two male were present and one of them was the applicant. He submits that he has committed the offence even after this crime. So, he is harmful to the society and the pregnant woman may lose the life. The applicant is habitual offender. He also read the statement of son of the one of the co-accused and vehemently argued that the applicant had no reason to send Rs.10,000/- on the same day of the incident. The victim and his family is poor. One of the co-accused was forcing them to leave for Pune and, accordingly, they went there. However, neither the learned A.P.P. nor the learned counsel for the victim has an explanation, why her father lodged a missing report when he was travelling with them for illegal termination of pregnancy. The learned counsel for the victim again prayed for rejection of bail.

9. The facts, as pointed by the respective learned counsels, reveal that the applicant was not named in the first information

report. The facts of the case reveal that when they left for illegal termination of pregnancy, the father of the victim was also there, but the reason is best known to him, why did not go with daughter and wife for termination of pregnancy. The police also did not suspect, why the alleged report of missing was lodged and why the victim and her mother went to Pune, why he had lodged a missing report is a mystery. The body of the still born child has not been recovered. The possibility of entangling him in the identical crime on the basis of his antecedents can also not be ruled out. How the accused seen present on the spot, the victim would not have made of mistake identifying him. However, she did not identify him when he face the test identification parade.

10. The first information report reveals that there were no male member in the hut. One of the ladies gave her pills. After consuming pills, the child was born dead. Since he was indulged in the identical crimes, his absence from the Court by seeking exemption application for anticipatory bail in this crime cannot be said to be his deliberate absence from those trial. The learned Special Judge (POCSO) has specifically expressed that there are no grounds to refuse bail. The Court is of the view that in the circumstances, the applicant deserve bail. Hence, the order:-

ORDER

- i) The bail application is allowed.

- ii) Applicant – Satish Balu Sonawane 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 should attend the trial on each effective date of trial and avoid protracting the trial.
 - (c) He should keep away from indulging in such identical crimes.

(S. G. MEHARE)
JUDGE

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