



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

BAIL APPLICATION NO. 1544 OF 2024

AYYUB KHAN SHAMSHER KHAN PATHAN  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

...  
Advocate for Applicant : Mr. Pathan Ziya Jakeriya  
APP for Respondent No.1: Mr. A. A. A. Khan  
Advocate for Respondent No.2: Mr. P. M. Kulkarni  
(Appointed through Legal Aid)  
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**CORAM : S. G. MEHARE, J.**

**DATE : 01-10-2024**

**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.93 of 2024 registered with Soygaon Police Station, District Aurangabad, for the offences punishable under Section 354, 376, 376(2)(i) of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
3. The applicant was a Maulana and the victim was the student in Madrasa. It has been alleged against the applicant that on the day of the incident, the applicant called the victim in one room. He closed the door from inside and played with her body. He removed the undergarment and did illegal act. However, somebody came

there. Hence, he left her. On these allegations, the report was lodged by her mother as she had narrated the incident to her. The applicant has been arrested on 31.05.2024.

4. The learned counsel for the applicant submits that the applicant is very a Teacher (Maulana). He was intending to have good students. Probably the victim might have afraid of his strictness. Though, she was 8 years old girl. Her statement is totally contradictory to the first information report. She has narrated the incident in her statement before the Magistrate that out of fear she cooked a false story against the applicant. The medical evidence also does not corroborate penetrative sexual assault. Her hymen was completely intact. So, there is no possibility of sexual assault. The applicant is a Maulana, but due to false allegations, his life is ruined.

5. The learned A.P.P. for the State and the learned counsel for victim have opposed the application. They submit that *prima facie* the offence is serious and punishable with severe punishment. Considering the age of the victim, she might have confused before the Court and developed a new story. The fact remains that medical opinion is probability of sexual assault other than penetrative assault cannot be ruled out.

6. Perused the papers.

7. The medical evidence does not corroborate the allegations levelled against the applicant in the first information report. The story brought by the victim before the Magistrate does not inspire the confidence that she narrated the facts before the Magistrate under pressure or fear. She brought altogether a new story. Hence, the Court is of the view that no purpose would be served by keeping the applicant behind bar. However, to protect the interest of the victim and her family, certain conditions may be imposed. Hence, the order:-

ORDER

- i) The bail application is allowed.
- ii) Applicant - Ayyub Khan Shamsheer Khan Pathan 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 not threaten the victim or her relatives.
  - (c) He should not enter the Madrasa, where he was teaching religious lessons to the students till the trial is concluded.
  - (d) He should attend the trial on each effective date.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the fees of the learned counsel appointed for respondent no.2/victim as per schedule.

**( S. G. MEHARE, J. )**