



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

127 BAIL APPLICATION NO. 1742 OF 2024

. Imran Khan @ Nanhe Khan Majid Khan .. **Applicant**

VERSUS

. The State of Maharashtra and another ..**Respondent**

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Advocate for Applicant : Mr. Gangakhedkar Shailendra S

APP for Respondent/State: Mr. P. K. Lakhotiya

Advocate for Respondent No.2 :

Ms. Angha Pedgaonkar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 18.11.2024

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he was arrested in connection with Crime No.231 of 2023, dated 08.11.2023, registered with Himayatnagar Police Station, District Nanded, for the offences punishable under Sections 363, 354-D, 376(2)(j)(n), 366, 506 of IPC and for Sections 4, 11(4), 12, 17, 21 of POCSO Act.

3] The case reflects sorry state of affairs of present society, where certain choice of individuals are not tolerated and in the instant such case has lead to the death of an innocent girl of 17 years.

4] The facts in brief are that the FIR is registered against the applicant on the basis of information given by Panchfulabai wife of Ramrao Pawar i.e. mother of the prosecutrix. It is stated in the FIR that on 07.11.2023, the husband of the informant and daughter took food in the night and, thereafter, her husband went to sleep. When the informant woke in the midnight at about 01:00 am, she realised that the victim was missing from the house. They tried to search the victim but she was not found and, accordingly, missing report was lodged. Thereafter, case of kidnapping was registered against the applicant.

5] The victim was traced, and she gave a statement that she was taken on motorcycle by the applicant towards Nanded and stayed there for the whole night and that the applicant had made sexual intercourse with her although she had refused to do so. As such, the offence of rape under Section 376(2)(j)(n) of IPC was registered against the applicant along with Sections 363, 354(D), 366 and 506 of IPC. The applicant was arrested on 15.07.2024. Thereafter, it is further stated that the victim has given statement under Section 164 of Cr.P.C. to the

Magistrate and in the said statement she has retracted from her earlier statement made under Section 161 of Cr.P.C. and she has stated to the Magistrate that she voluntarily left the house when she was at the railway station she called the applicant and asked him to take her with him failing which she threatened to commit suicide. Thereafter, the applicant took her, however, she did not have sexual intercourse with the applicant.

6] She has specifically stated in the statement that she stayed in the room which was taken on rent by the applicant. She stayed alone and that the applicant was staying with his friend. As such, she has not substantiated her statement made under Section 161 of Cr.P.C. and rather retracted from the same.

7] She has further stated in her 164 statement that she was forced by her parents to have marriage with some other person and that they harassed her mentally and physically. It appears that on 01.02.2024, the victim was murdered and the parents are arrayed as the accused in the said case. The victim was killed, while she was sleeping in her parents house.

8] Considering the above noted statement of the victim, who was 17 years of age, made to the Magistrate, so also, that there is no medical evidence substantiating the

allegations of rape made by the victim in her statement, this is a fit case for grant of bail.

9] The learned APP also not seriously contested this matter in view of the victim's statement under Section 164 of Cr.P.C.

10] Ms. Angha Pedgaonkar, learned counsel being appointed, her fees is quantified at Rs.10,000/- to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

11] In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.231 of 2023, dated 08.11.2023, registered with Himayatnagar Police Station, District Nanded, for the offences punishable under Sections 363, 354-D, 376(2)(j)(n), 366, 506 of IPC and for Sections 4, 11(4), 12, 17, 21 of POCSO Act, on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless

exempted by the trial Court, for reasons to be recorded in writing.

c] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the witnesses and other persons concerned with the case.

d] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

12] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

13] It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

14] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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