



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

943 BAIL APPLICATION NO. 1750 OF 2024

GANESH HOTALLAPPA @ PRABHAKAR PADAMPALLE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Bhapkar Shivaji Bhimrao

APP for Respondent-State : Mr.A.A.A. Khan

Advocate for Respondent no.2 : Mr.Rajesh Mewara(Appointed Through
Legal Aid)

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CORAM : S. G. MEHARE, J.

DATE : 23rd October, 2024.

P.C.:

1. Heard the learned counsel for the applicant, the learned APP for the respondent/State and the learned counsel for the victim.
2. The applicant seeks bail in Crime No.249 of 2024 registered with Police Station, Degloor, Tq. Degloor, Dist. Nanded, for the offences punishable under section 376, 376(AB) of the Indian Penal Code and sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act.
3. The applicant was found committing sexual assault with a girl child of 3 years and 4 months. The mother saw the victim coming out of the cattle shed. Immediately, after her applicant also came from cattle shed. She told her mother that the applicant took her inside the cattle shed saying that her father was there. He was questioned there, that time he was frightened. She told about removing her knicker and

that something was inserted in her private part. Her mother seen the reddish swelling on her private part. F.I.R. was registered with explanation for delay.

4. The learned counsel for the applicant submits that there was a civil dispute between the two families. However, he did not produce the copy of civil dispute to examine its nexus with present crime. He referred to the physical examination report of the victim and vehemently argued that there was nothing against the applicant to believe that he committed such a serious crime. He argued that the child did not narrate the history to the medical officer. He also argued that he being adult was able to do the sex and that does not mean that he committed such a serious offence. Reading opinion of the doctor, he argued that it is a just opinion of doubt. That apart, the chargesheet has been filed. Nothing is to be recovered. He is languishing in jail for sufficient time.

5. The learned APP and the learned counsel for the victim have vehemently argued that reading the medical opinion as a whole, the statement of the mother, narration of the victim and physical examination of the victim by her mother cannot be discarded at this juncture. She had abrasion over her right side forehead situated above the medial end of right side eyebrow. They would submit that considering the age of the victim, it could not be expected that she was to narrate the history to the medical officer. Due to the incident, she

was frightened. However, she explained the incident to her mother. Immediately after the victim came out of the cattle shed, the applicant came out. He was questioned, that time he was frightened. These are strong circumstance against him. The medical opinion is correct that non-penetrative sexual assault can not be ruled out. If this opinion is read along with story explained that something is inserted in her vagina, that inspires confidence. There was no civil dispute as such. The applicant is in brotherhood of the family of the victim. Attempt to commit penetrative sexual assault is liable to be punished as it is an offence of sexual assault. She told local name of the object which was penetrated into her vagina. The act of the applicant was intentional. The offence is serious. The delay in F.I.R. has been properly explained. The victim of such of small age had no reason to implicate the applicant falsely in the crime. Therefore, he should not be granted bail.

6. Considering the papers, there appears force and substance in the arguments of the learned APP and the learned counsel for the victim. Immediately after the incident the mother of the victim saw the applicant coming out of the cattle shed, after her daughter. The victim of three years and five months told the incident happened with her. She was medically examined belatedly, therefore, it does not mean that such serious allegations are false. In this matter, the age of the victim matters. Considering the nature of the offence and material

against the applicant, the application stands dismissed.

7. The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fees to the learned counsel appointed for respondent No.2/victim, as per the schedule.

[S. G. MEHARE, J.]

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