

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1836 OF 2024

Rushikesh Pandurang Dhonde

VERSUS

The State Of Maharashtra And Others

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Advocate for Applicant : Mr. Shekade Shashikant E

APP for Respondent/State : Mr. G.O. Wattamvar

Advocate for Respondent No.2 : Mr. Bipinchandra K. Patil (Appointed
Through Legal Aid)

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 25, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel appointed for victim.
2. The learned counsel appointed through legal aid has made phone calls to the father of the victim for 2-3 times, but did not respond. Hence, he had no option except to argue the matter on the basis of the charge sheet and accordingly, he advanced the arguments.
3. The applicant seeks bail in Crime No.512 of 2024 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 376, 376(2)(n), 376-D, 366, 354, 498-A, 307, 324, 323, 506 r/w 34 of the Indian Penal Code and Sections 4, 8, 11 and 12 of the Protection of Children From Sexual Offences Act and Sections 3(1)(W)(i)(ii), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

4. The allegations reveal that the applicant and the victim were in relationship for around 7 to 8 years and their affair turned into marriage. It seems that after the marriage, there were some difference of opinion and they were quarreling. That resulted in her separation. Thereafter, she lodged the report. She alleged that the applicant with ill-motive trapped her, took her to different places and lodges and did forceful sex. He recorded the videograph in his mobile handset of their sex. Thereafter, she was blackmailed and under the threat to viral those videographs, she was forcefully sexed. Her marriage was also fixed with another boy, but a day before the marriage, the applicant went there and promised her that he would return all the documents to her. Hence, she went with him. Surprisingly, the parents were silent. They never resisted the applicant nor helped the victim. She made the wild allegations of repeated forceful sex. The applicant and the victim were the close relatives.

5. As per the argument of the learned counsel for the applicant supported with the documents, both married at Alandi. The applicant's counsel also referred to a letter addressed to the police signed by both, that they have voluntarily married. They have an apprehension from their parents. Therefore, on their report no action should be taken and they may be provided with protection. This was a letter dated 22.11.2023. The counsel for the applicant also referred

to the affidavit of the victim in divorce case. In the said affidavit, they had decided to dissolve their marriage mutually. She admitted the marriage; however, she did not like to stay with the applicant. Hence, she was quarreling and left the home and lodged the report. The applicant has been arrested long back. A thorough investigation has been done and the charge sheet has been filed. The allegations levelled against him are false, imaginary and concocted only with a view to see him behind the bar. Considering the facts of the case and long relationship turned into marriage, he may be granted bail.

6. Learned counsel for the victim has vehemently argued that the detailed FIR would reveal that how the applicant tactfully cheated her and forcefully did sex. He would submit that everything was done under threat and force. There was a variance in the dates of the marriage. She also specifically alleged that the applicant with the help of the Advocates prepared a false affidavit and obtained her signatures under compulsion. She is educated; hence, she remembered every incident. Unless a forceful sex and atrocity was done, no woman would file such a report with wild allegations. It appears from the allegations that the applicant had spoiled her life and caused atrocities with her. Though the marriage is shown, the sex was done forceful. Hence, it cannot be said that no offence is made out, as they were married. Reading the relevant papers, he would submit that *prima facie* strong evidence is against the

applicant. The offence is grave and serious. The victim and her parents have danger at the hands of the applicant, if he has been granted bail. Hence, he prayed to dismiss the application.

7. In addition to the arguments of the learned counsel for the victim, the learned APP would submit that the victim is consistent as regards the allegations. She has narrated the same allegations against the applicant in her statement under Section 164 of the Criminal Procedure Code. Considering the facts of the case, it would not be proper to grant bail to the applicant, to protect the interest of the victim and her parents. He also prayed to reject the application.

8. The facts discussed above reveal that the applicant and the victim were in relationship since 2016. Both were going from one place to another and staying in the lodges and doing sex. One way or the other, the record reveals that they married and lived together and after the marriage, they had differences. Hence, she lodged the report even not excusing the lawyers, who were professionally rendering the services to the litigant. She appears to have a serious grievance against the applicant. It is really shocking that a day before her marriage, a girl leaves her home and parents remained silent spectators. *Prima facie*, there is material to believe that the victim and the applicant were married and residing together and then their differences were increased. A thorough investigation has been done and every possible evidence has been collected. They are the

residents of two different places. The overall facts as discussed above supports the application for bail. Even then, certain conditions may be imposed against the applicant to guard the apprehension of the victim and her family. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Rushikesh Pandurang Dhonde, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that ;
 - (a) The applicant should not tamper with the prosecution witnesses and should attend the trial on each and every effective date.
 - (b) The applicant should not enter the village where the victim and her parents are residing till the trial is concluded.
 - (c) The applicant should not avoid to attend the trial without any reason and co-operate with the Trial Court for expeditious trial.
- (iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad is directed to pay the fees to the appointed counsel for the victim as per schedule.

(S.G. MEHARE, J.)