



This order is corrected as per the speaking to minutes of order dated 11.01.2024.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 BAIL APPLICATION NO. 1985 OF 2023

Nandlal Bhikulal Jaiswal

Versus

The State Of Maharashtra and another

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Advocate for Applicant : Mr. Tungar Nikhilesh K.

APP for Respondent No.1: Mrs. Pratibha J. Bharad

Advocate for Respondent No.2 : Mr. A.R. Syed

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 5th JANUARY, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of Cr.P.C. in connection with crime No. 0507 of 2022 registered with Khultabad police station, District Aurangabad for the offences punishable under Sections 354, 376(AB), 511 of I.P.C., under Sections 8 and 12 of Protection of Children from Sexual Offences Act and under Sections 3(1) (w) (i), 3(1)(w)(ii), 3(2) (va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. His application with similar prayer below Exh.6 in Special Case No. 26 of 2023 came to be rejected by the learned Additional Sessions Judge, Aurangabad, vide order dated 11.07.2023.

2. It is alleged that the prosecutrix was 10 years of age and at the relevant time was playing with her friends in front of the house of

informant, who is maternal aunt of the prosecutrix. The informant had noticed that the applicant was kissing the prosecutrix and removing her clothes. She also saw that the applicant was sitting on the person of the prosecutrix. When the informant rushed there, the applicant ran away. The peoples thereafter caught hold the applicant. He was interrogated and he told his name to the peoples, who gathered there.

3. Learned counsel for the applicant submitted that there is no any injury sustained to the prosecutrix. On the contrary, the applicant was assaulted and beaten only on the doubt. He is 55 year of age and he is serving as security guard/watchman. He lastly prayed to allow the application by imposing certain conditions.

4. Learned A.P.P. for the respondent-State and learned advocate for respondent No.2 strongly opposed the application. They pointed out the statement of the victim recorded under section 164 of Cr.P.C. in which she has specifically stated about the incident which is in consonance with the report, lodged by her maternal aunt. As far as invoking the provisions of Atrocities Act are concerned, admittedly, the applicant is resident of another village. The charge sheet does not disclose that the applicant was having any knowledge of the caste of the prosecutrix.

5. Perused the report. Considering the serious nature of the

crime, the applicant cannot be released on bail, as there is material evidence against the applicant. As far as the invoking of the provisions of Atrocities Act are concerned, the Special Court will take care of it while concluding the trial considering material before it. Considering all these aspects, the application deserves to be rejected. The application is rejected.

6. Since Mr. A. R. Syed, learned counsel is appointed to represent the cause of the respondents, his fees be paid as per the schedule of fees maintained by the High Court Legal Services, Sub-Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

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