



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

1000 BAIL APPLICATION NO. 2178 OF 2023

VIJAY ANKUSH SHETE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Vikram Shivaji Undre.
APP for Respondent Nos.1 & 2 : Mr. Mukesh K. Goyanka.
Advocate for Respondent No.3 : Mr. D. Y. Nandedkar. (Appointed).
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CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 09th January, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.212 of 2023, registered with Washi Police Station, Washi, District Osmanabad, for the offences punishable under Sections 376, 376(3), 354(A) and 506 of Indian Penal Code, Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act and Sections 3 (2) (va), 3 (a)(w) (i) and (ii) of the Scheduled Case and Scheduled Tribe (Prevention of Atrocities) Act 1989.

3 A girl of 13 years and 4 months lodged the report alleging that she was running a pan shop. The applicant used to come there with his tractor for having tobacco etc. He used to carry sugarcane.

On 5th May, 2023, he came there and committed rape on her by taking her backside of the pan shop/Tapri and threatened that he will kill her. Therefore, the informant did not disclose that fact to her parents. Thereafter, there were pains to her stomach. She suffered a lot. Again the applicant used to come there when she was running that pan shop. He used to request her for the same acts, but the informant used to leave that pan shop. Her parents asked her as to what happened. But she was not disclosing that fact to them. Once, her mother took her into confidence and she disclosed the sexual assault to her. Therefore, the report was lodged on 14th July, 2023.

4 The learned counsel for applicant submitted that there is 70 days delay for lodging the report. It is not explained. There were some transactions with the uncle of the informant and the applicant about ploughing of the agricultural land. Due to boundary dispute, the applicant could not plough that agricultural land. Therefore, the false report is lodged against him.

5 The learned counsel for applicant further submitted that the applicant was arrested in similar nature of crime punishable under Section 376 of the IPC, in which bail is granted by the learned Additional Sessions Judge, Bhoom, District Osmanabad by order dated 6th January, 2024. He lastly prayed to allow the application.

6 The learned APP for the State and the learned counsel for the informant strongly opposed the application. They contended that the applicant has committed heinous crime against the child of 13 years and 4 months. He has threatened her to kill after commission of rape. Thus, there is explanation of delay for lodging the report. The statement of the informant is recorded under Section 164 of the Cr.P.C. She adhered to that incident. The medical examination report also shows that the possibility of sexual intercourse cannot be ruled out. They lastly prayed to reject the application.

7 Perused the charge-sheet. There is delay of 70 days caused for lodging the report. The investigation is over. The applicant has roots in the society. He will not flee away from trial. The trial will take long period. Considering the delay caused for lodging the report, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.212 of 2023, registered with Washi Police Station, Washi, District Osmanabad, for the offences punishable under Sections 376, 376(3), 354(A) and 506 of Indian Penal Code, Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act

and Sections 3 (2) (va), 3 (a)(w) (i) and (ii) of the Scheduled Case and Scheduled Tribe (Prevention of Atrocities) Act 1989, be released on bail on furnishing personal bond of Rs.25,000/- with surety of the like amount on following conditions:-

- a) The applicant shall not pressurize the witnesses.
- b) The applicant shall not tamper with the prosecution evidence in any manner.
- c) The applicant shall not enter into village Dasmegaon, Taluka Washi, District Osmanabad till the conclusion of trial.

8 The fees of the appointed counsel be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

[SANJAY A. DESHMUKH, J.]

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