



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

926 BAIL APPLICATION NO. 2196 OF 2023

Rashid Garib Beg Mirza.

... Applicant

Versus

The State of Maharashtra and another.

... Respondents

...

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for Applicant.

Mr. Satish A. Gaikwad, APP for Respondent/State.

Mr. Abhinay D. Khot, Advocate for Respondent No.2.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 06th February, 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. I 872 of 2023, registered with Shrirampur City Police Station, Shrirampur, District Ahmednagar, for the offences punishable under Sections 354, 354A, 354C, 354D, 504, 506 and 509 of the Indian Penal Code, under Sections 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(r)(s), 3(2)(v-a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3 It is averred in the report that on 16th August, 2023 the informant, who is 30 years old women, was taking bath near to her house. The applicant went on the roof and moved the tin-shed and saw her in naked condition. Therefore, she made hue and cry. The applicant ran away from there. Thereafter, the informant went to the house of the father of applicant to tell him. That time, the father of the applicant scolded her and said her that why she is taking bath openly. He also abused her on caste by saying that “तुमच्या मांग लोंकाची लायकी आहे का आमच्यावर आरोप करायची”. He also threatened her that he will kill her and expel her from that area. That time, the brother of this applicant Rauf Mirza also came to the house of informant and threatened to cut them into pieces. The applicant was also teasing the daughter of the informant, who was 14 years and 2 months old by showing his penis and used to tease her. When that fact was informed to the father of applicant, he did not respond. Therefore, there was delay for lodging the report and the report was lodged on 18th August, 2023.

4 The learned counsel for applicant submitted that the applicant has no criminal antecedents. He will not flee away from the trial. The trial will take long period. The applicant is falsely implicated in the crime. The charge-sheet is submitted. The presence of

applicant can be secured for the trial. It is lastly prayed to allow the application.

5 The learned APP for the State and the learned counsel for respondent No.2 strongly opposed the application and submitted that the applicant is involved in serious crime. The possibility of pressurizing and threatening the witnesses cannot be ruled out. Considering the heinous nature of crime, it is lastly prayed to reject the application.

6 Perused the charge-sheet, particularly, the report and the statements of witnesses. Apart from merits of the case, considering the nature of the offence and fact that the charge-sheet is filed as well as the applicant has roots in the society, the application can be allowed on certain stringent conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No. I 872 of 2023, registered with Shrirampur City Police Station, Shrirampur, District Ahmednagar, for the offences punishable under Sections 354, 354A, 354C, 354D, 504, 506 and 509 of the Indian Penal Code, under Sections 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(r)(s), 3(2)(v-a) of the Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Act, 1989, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-

- a) The applicant shall not pressurize the prosecution witnesses.
- b) The applicant shall not tamper with the prosecution evidence, in any manner.
- c) The applicant shall not enter into Shrirampur city till conclusion of trial, except the dates fixed for hearing of the case in the Trial Court at Shrirampur, District Ahmednagar.
- d) The applicant shall not go near to his house and house of informant till the conclusion of trial even on the dates of the case. It means he can go to the Court and not anywhere in Shrirampur.
- e) The applicant shall submit his address of resident in writing alongwith phone number in the Trial Court within 8 days of his release on bail.
- f) If the applicant or anybody on his behalf tries to pressurize the informant or witnesses, the investigating officer / concerned police station / prosecution or the informant may apply for cancellation of his bail before the Trial Court. If such an application is moved, the Trial Court is at liberty to decide the said application on merits without reference to this Court.

[SANJAY A. DESHMUKH, J.]