



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

7 BAIL APPLICATION NO. 2233 OF 2023

ARSHAD RABBI PATEL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Ms. Sangita P. Daud Sambre, Advocate for Applicant. (Appointed Through Legal Aid).

Mrs. Dipali S. Jape, APP for Respondent/State.

Ms. Kojagiri M. Salve, Advocate for Respondent No.2. (Appointed).

...

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

DATE : 29th April, 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.317 of 2023, registered at M.I.D.C. Police Station, District Jalgaon, for the offences punishable under 354 of the Indian Penal Code and under Sections 7 and 8 of the POCSO Act.

3 It is averred in the report that the informant, who is labourer of the applicant, was in her house and she was tracing her girl child approximately 7 years old, who was playing with her brother. She took search of the victim child and while searching, she heard the cry

of the victim child girl. Thereafter, she opened the door of the house of applicant and she saw that the applicant was pressing the chest of the victim child. The victim child tried to cry, but the applicant was pressing her mouth. The informant rescued the victim child from the clutches of the applicant. The applicant ran away. The report was lodged on the same day.

4 The learned counsel for applicant submitted that the applicant is behind bars since 15th May, 2023. The learned counsel for applicant submitted that the matter is at evidence stage, however, the trial is not concluded. Considering the period undergone by the applicant, it is lastly prayed to release the applicant on bail as he has no criminal antecedents, he has roots in the society, the trial will take a long period and the applicant's presence can be secured for the trial.

5 The learned APP for the State and the learned appointed counsel for respondent No.2 strongly opposed the application and submitted that the applicant is involved in serious crime. He has criminal antecedents and he is prosecuted for the offence punishable under Section 377 of the Indian Penal Code in the year 2001 i.e. before two years of the incident. Though he is a young boy, there is possibility of commission of same nature of crime on his part. Considering these aspects, it is lastly prayed to reject the application.

6 Perused the charge-sheet, particularly, the report and the statements of witnesses. The medical certificate of the victim child shows that there is finding of chest – linear abrasion approximate size 1 cm x 2 cm x 1 cm below medial left nip area. The opinion of the doctor is that there is nail mark present over chest. Therefore, in view of the fact that applicant and victim child are residing in one and the same area, as the criteria, which is laid down by the Honourable Supreme Court in the case of ***Deepak Yadav Vs. State of Uttar Pradesh, (2022) 8 SCC 559***, the applicant is certainly not entitled for bail.

7 Considering the nature of the proceedings, it would be proper to direct the Trial Court to expedite the trial. The application, therefore, deserves to be rejected. The bail application is rejected.

8 The Trial Court is directed to hear the case as expeditiously as possible and in any case conclude it within six months from today. Needless to mention that it is a sessions trial and word “sessions” means once it is started it shall not be stopped till it is concluded. For that purpose, the Trial Court is expected to keep the date twice or thrice in a week and conclude the trial accordingly.

9 The Trial Court is further directed not to grant

adjournments if it is prayed on behalf of either the prosecution or the defence unless there is extreme urgency or reasonable ground. If the accused are not produced, the Trial Court may call the jail authority and escort party and warn them by passing an order accordingly by giving one opportunity to them to produce the accused, under trial prisoners continuously. If it is not followed then the Trial Court may proceed against these authorities for not following the order of the legal authority of public servant as per the (applicable) provisions of Chapter X of the Indian Penal Code. If the advocates for accused or the public prosecutor are not cooperating the Court for conducting the trial as expeditiously as possible, the Trial Court may impose heavy costs on the concerned accused.

10 The fees of Ms. Sangita P. Daud Sambre, learned appointed counsel through the Legal Aid and Ms. Kojagiri M. Salve, learned appointed counsel, be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules and schedule.

[SANJAY A. DESHMUKH, J.]

nga