



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 BAIL APPLICATION NO. 2362 OF 2023

Rahul Balasaheb Mali
VERSUS
The State of Maharashtra

...
Advocate for Applicant : Mr. Deshmukh Vijay Vasantrao
APP for Respondent: Mrs. P.J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 18th JANUARY, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of Cr.P.C. in connection with crime No. 1131 of 2023 registered with Pathardi police station, District Ahmednagar for the offences punishable under Sections 376, 504 and 506 of I.P.C. His application with similar prayer bearing criminal bail application No. 1937 of 2023 came to be rejected by the learned Additional Sessions Judge, Ahmednagar vide order dated 11.12.2023.

2. The informant averred in the report that she was residing with her family members. The applicant is her relative. He used to make phone calls to her and used to visit her. Once there was sexual intercourse between them. Thereafter, he started threatening her and committed same act for many times. On 03.11.2023, at about 1.00 p.m. when the informant was working in the agricultural field, the applicant committed rape on her even though she opposed for it. He

threatened to kill her. Therefore, she told about the same to her husband and other family members and the report was lodged.

3. Learned advocate for the applicant pointed out that there are material contradictions in her statement recorded under Section 164 of Cr.P.C. and the report lodged by her. There is no any kind of injury caused to the informant. It is a case of consensual sexual intercourse. The applicant is falsely implicated in the crime. It is lastly prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that the applicant has frequently harassed the informant and committed rape on her for many times. Considering serious allegations against the applicant and the crime committed by the applicant is anti social, learned A.P.P. prayed to reject the application.

5. Perused the charge sheet, particularly report and the statement under section 164 of the Cr.P.C. In her statement, the informant has stated that after the incident, they both went to a Hotel and thereafter, the applicant heft her at Newasa Phata. The informant then made phone call to her family members. Thereafter, the report was lodged. This material contradiction prima facie goes to the root of the matter that there was consensual sexual relations between the applicant and the informant. The applicant has roots in

the society. He will not flee away from the trial. The trial would take a long time. The application therefore, deserves to be allowed on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 1131 of 2023 registered with Pathardi police station, District Ahmednagar for the offences punishable under Sections 376, 504, 506 of I.P.C. be released on bail on furnishing personal bond of Rs.1,00,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not contact the informant or her relatives in any manner either physically or by making phone call etc. till the conclusion of trial.
 - b) The applicant shall not enter into Newasa and Pathardi Talukas, except the dates for attending the trial.

(SANJAY A. DESHMUKH, J.)

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