

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2896 OF 2023

Vikas Tanaji Bodare. Age 32 years,
Occ.Service, R/o.Vitthalpur, Tal.Atpadi,
Dist.Sangli. (Presently at Satara Jail) Applicant
versus

1. The State of Maharashtra
2. Sharad Kailas Varpe, R/o.Talkhed,
Tal.Majalgaon, District Beed. Respondents

Mr.Siddheshwar B.Kalel, Advocate for Applicant.
Mrs.Priyanka S.Rane, APP for State.
Mr.Farhan Shaikh, Advocate for Respondent no.2.

CORAM : ANIL S.KILOR, J.

DATE : 1st July 2024

PC :

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.368 of 2022 registered with Lonand Police Station, District Satara, for the offences punishable under Sections 377, 506 of the Indian Penal Code r/w Sections 4, 6, 12 of Protection of Children from Sexual Offences Act, 2012.
3. Learned counsel for the Applicant makes following submissions :

a. There is no evidence against the Applicant to show that he is involved in the alleged offence;

b. The medical report does not support the case of prosecution;

c. Since the charge sheet has been filed, further custody of the Applicant is not necessary.

4. On the other hand, learned APP strongly opposed the application for bail. Learned APP made following submissions :

i) There is sufficient evidence collected by the Investigating Officer to show the prima facie involvement of the Applicant in the alleged offence;

ii) The statements of witnesses support the case of prosecution;

iii) The offence is serious. Therefore learned APP prays for rejection of application.

5. Learned counsel for Respondent no.2 reiterates the submissions of learned APP and prays for rejection of present application.

6. Having considered the evidence collected by the Investigating Officer during investigation, it is evident that medical report prima facie does not support the prosecution case and the Doctor has opined that no definite opinion can be given as to whether the alleged accused in the case under reference had performed any recent sexual intercourse in the ordinary way and there is nothing to suspect about his potency. Moreover, clause 18(c) of medical report also prima facie does not support the case of prosecution. Thus, in absence of medical evidence if the statements of witnesses and statement of victim are considered, I am of the opinion that

considering the period of incarceration of the Applicant who is in jail from 23rd November 2022, he is entitled for grant of bail. Moreover, there is no possibility that Applicant may pressurize the witnesses or tamper with evidence of prosecution for the reason that the incident took place at Lonand, Taluka Khandala in Satara District whereas Applicant is resident of Village Vitthalpur, Taluka Aatpadi, District Sangli.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No. 368 of 2022 registered with Lonand Police Station, District Satara, for the offences punishable under Sections 377, 506 of the Indian Penal Code r/w Sections 4, 6, 12 of Protection of Children from Sexual Offences Act, 2012 on furnishing P.R.Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- (iii) The Applicant shall not enter into territorial jurisdiction of Lonand Police Station, Taluka Khandala, District Satara, till conclusion of trial except for trial;
- (iv) The Applicant shall provide his address and name of nearby Police Station to the Investigating Officer and attend said Police Station on 1st and 16th day of every month between 12.00 noon and 2.00 pm till conclusion of trial;
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- (vi) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence;

(vii) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

MST