



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 43 OF 2025

Nana @ Nanabhau Dadarao Gholve
Age 47 years, Occupation Service,
R/o. At post Mundewadi,
Tq. Kaij, Dist. Beed.

... Applicant

Versus

1. The State of Maharashtra
Through Officer In Charge,
Police Station Kaij,
District Beed.

2. The Superintendent of Police,
Beed, District Beed.

... Respondents

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Mr. Sudarshan J. Salunke, Advocate for the Applicant.
Mr. S. B. Narwade, APP for the Respondent-State.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 06.02.2025

Pronounced on : 07.02.2025

ORDER :

1. Applicant seeks enlargement on regular bail on account of his arrest in crime no. 0535 of 2024 registered at Kaij Police Station, District Beed for offence punishable under Sections 64, 333, 64(2)(i) (k) of the Bharatiya Nyaya Sanhita [BNS] and under Section 92-B of the Rights of Persons with Disabilities Act, 2016.

2. Pointing to the date of arrest as 16.10.2024, learned counsel for the applicant submitted that alleged occurrence is of 07.10.2024 and FIR is of 08.10.2024. That, there is false implication. He pointed out that there are allegations of committing above offence on a victim who is said to be 43 years of age and there are allegations that she was differently abled, i.e. deaf and dumb. However, according to learned counsel, there is no supportive evidence in that regard. That, even there are allegations that she was mentally challenged but it is a borderline case. Therefore, it cannot be said that she did not understand the import of alleged act. That, she has not given statement. That she was married but had left her husband. FIR is at the instance of aunt and initially report was regarding above offence against unknown person. That, in spite of medical examination, there is no opinion about forceful sexual act. Now investigation is over and charge sheet is already filed in November 2024 and when nothing further is to be recovered or discovered at the instance of applicant, learned counsel seeks grant of bail as, according to him, applicant is ready to abide all and any conditions including not to enter the village till conclusion of trial.

3. Learned APP strongly opposed by submitting that serious offence is committed on a differently abled and mentally challenged victim and there is eye witness account. That, provisions of Rights of Persons with Disabilities Act are attracted. That, medical evidence suggests abrasion on the person of victim and even her statement has been recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita [BNSS]. Learned APP pointed out that her statement before Magistrate is by use of gestures as she was differently abled. There is overwhelming evidence regarding involvement of applicant in sexually exploiting such differently abled victim and for all above reasons, he seeks rejection of the application.

4. After considering the submissions and on going through the FIR, it transpires that aunt of victim has lodged report at Kaij Police Station reporting that, victim is her niece, who is by birth deaf and dumb and she has separated from her husband and residing in her neighbourhood. She reported that on 07.10.2024, around 3.00 p.m. when she returned from field for drinking water, she saw her sister-in-law Daivashala working in front of her house and she also saw that door of house of Namdeo Gholve was half open and therefore she informed about it to her sister-in-law and then she claims to have

opened the door and saw inside. That time she claims that present applicant was sleeping on the victim in half nude condition and having sexual intercourse with her. Informant raised shouts inviting attention of her sister-in-law and seeing both of them, present applicant allegedly fled and hence police were approached and on above report, crime seems to have been registered.

5. Learned APP, in support of contention that victim is differently abled, has invited attention of the Court to the medical papers issued by Swami Ramanad Teerth Rural Hospital, Ambajogai dated 10.10.2024, wherein examining doctor, a psychiatrist, has remarked that patient has borderline intellectual disability and has secondary hearing difficulties and she has also undergone intelligence test. Therefore, as submitted, victim is apparently not only deaf and dumb, but also mentally challenged. Coupled with statement of informant under Section 183 of BNSS, there is also statement of her sister-in-law and they both have consistently stated about present applicant sleeping over the person of victim and forcing himself on her. Medical papers of examination of victim are also placed on record and said examination is shown to be done on MLC. Therefore, as submitted, there is direct eye witness account. Applicant seems to be in relation of the victim. *Prima facie* it is emerging that a differently abled and

mentally challenged lady has been sexually exploited. Therefore, taking such material into consideration, though charge sheet is filed, this Court is not inclined to grant relief as prayed at this stage. Hence, I proceed to pass the following order :

ORDER

The application is dismissed

[ABHAY S. WAGHWASE, J.]

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