



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 124 OF 2025

Saurabh S/o. Mahendra Patil,
Age : 18 years, Occu. : Education,
R/o. Nagalwadi, Tq. Chopda,
Dist. Jalgaon.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Chopda City Police Station,
Tq. Chopda, Dist. Jalgaon.

2. X.Y.Z.

... Respondents.

.....
Mr. Tapan K. Sant, Advocate for Applicant.
Mr. P. K. Lakhotiya, APP for Respondent - State.
Mr. Shritej Surve, Advocate for Respondent No.2.
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 APRIL 2025

PRONOUNCED ON : 22 APRIL 2025

ORDER :

1. Applicant seeks his enlargement on regular bail on account of his arrest in Crime No.0405 of 2024 registered at Chopda-City Police Station, Dist. Jalgaon for offence punishable under sections 64(1), 351(2) and 351(3) of the Bharatiya Nyaya Sanhita and under sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. In support of relief, learned counsel for applicant would submit that, applicant is merely 18 years of age. That, though there are allegations of sexual offence, medical papers clearly ruled out said occurrence. He pointed out that, here, informant herself gave her age to be 12 years and some months old, but there is no cogent or legally acceptable documentary evidence about her age. That, no birth certificate or other relevant evidence is brought on record. He pointed out that, mere bonafide certificate is gathered and same has no evidentiary value to substantiate the age. Learned counsel took this court through the medical papers and pointed out that, history reported is that girl went on her own accord. That, injuries noted being old, cannot be attributed to alleged occurrence in question. That, investigation is over and charge sheet is filed on 16.10.2024. That, applicant is behind bars since August 2024. Considering the tender age of the applicant learned counsel urges for due consideration of bail by pointing out that subsequently father of informant has tendered affidavit that report was lodged due to some misunderstanding. That, investigation being over, no purpose would be served by further detention of a young boy. For all above reasons, he urges for grant of bail.

3. Learned APP opposed on the ground that, serious offence is committed. That, victim is barely 12 years and few months old. That, victim's statement is recorded.

4. Learned counsel for informant would submit that, report is on misunderstanding. That, matter is settled *interse* between the parties. That, informant has no objection for grant of bail.

5. Heard. Perused the papers. Report dated 24.08.2024 seems to be at the instance of victim, who state that, she studying in 8th standard. On 23.08.2024, around 12.00 noon, when she went to urinate, applicant came there, caught hold of her hand and forcibly took her to the maize field, removed her garments, slept over her and maintained physical relations with her and thereafter threatened her not to inform anyone. She went home. Around 8:00 p.m. her paternal cousin came and said that he knew what has happened and that he would inform her parents. Thereafter when her father came, her cousin questioned him that whether his daughter goes to school or to the field, and therefore, she narrated the occurrence to her father and they all approached police.

6. Thus, what is prima facie emerging form the FIR is

that, there are allegations of being forcibly taken on motorcycle from school while victim was allegedly attending school. She reported that, she was forcibly taken to maize field near the school, that too on a motorcycle by applicant alone. After the alleged incident, which had taken place in the afternoon itself in the field, in spite of reaching home, immediately after the occurrence victim has not reported and rather it appears that only when her paternal cousin came and informed that he knew what has happened, it appears that there is disclosure.

7. On court query, learned APP submitted that, there is no date of birth certificate and mere bonafide certificate is gathered. As pointed out, in the medical papers, history is reported that, victim allegedly went with her own accord. Examining doctor in the medical papers has noted that injuries to be old. Possibility of sexual intercourse has not been ruled out.

8. Learned counsel for informant has placed on record affidavit of respondent no.2 about report to be lodged due to enmity between father of victim and father of applicant and there is no objection. Though such affidavit at later point of time cannot be considered in a case involving above nature of charges, in the light of contents of the FIR and there to be no concrete age proof in the

entire charge sheet in spite of there being charge of POCSO Act coupled with the fact that medical papers carrying noting about girl going on her own accord and further as no purpose is shown to be achieved by further detention, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

- (i) The application is allowed.
- (ii) The applicant Saurabh S/o. Mahendra Patil be released on bail in connection with Crime No.0405 of 2024 registered with Chopda-City Police Station, Dist. Jalgaon on executing P.B. of Rs.15,000/- with one surety in the like amount.
- (iii) The applicant shall not tamper prosecution evidence.
- (iv) The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- (v) The applicant shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)