



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 239 OF 2025

Sopan Laxman Kharat
Age : 29 years, Occupation Labour,
R/o Mahalaxmikheda,
Taluka Gangapur,
District Chhatrapati Sambhajnagar. ... Applicant

Versus

1. The State of Maharashtra
Through Investigating Officer,
Police Station Gangapur,
Taluka Gangapur,
District Chhatrapati Sambhajnagar.
2. The Superintendent of Police,
Aurangabad.
3. X Y Z the Complainant. ... Respondents

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Mr. S. M. Nawale, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondent Nos.1 and 2-State.
Ms. Aishwarya Takale, Advocate for Respondent No.3 (appointed)
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 10.03.2025
Pronounced on : 11.03.2025

ORDER :

1. Applicant seeks grant of regular bail in crime no. 0477 of 2024 registered at Gangapur Police Station, District Aurangabad Rural for offences punishable under Sections 376 & 376(2) of IPC and Section 6 of POCSO Act.

2. Pointing to the date of arrest as 04.10.2024, learned counsel submitted that, applicant was engaged with informant. That, there are allegations of sexual intercourse which allegedly took place on 20.04.2024 but there is no immediate reporting. Rather, only on complaint of abdominal pain, when pregnancy was detected, occurrence is reported. That, victim is major. He pointed out that even when pregnancy was detected in September 2024, report is lodged on 02.10.2024. That, initially anticipatory bail application was preferred but it was rejected as DNA report was awaited. That, now report is received and it is negative, thereby excluding applicant to be responsible for pregnancy. He further submitted that now investigation is over and charge sheet is also filed, and as no further purpose is to be achieved by further detention, according to learned counsel, applicant be put to strict conditions by granting bail.

3. Learned APP as well as learned counsel appointed to represent the informant, both have strongly opposed on the ground that when the incident took place, victim was minor. That, even before tying the nuptial knot, there was sexual intercourse against the wish of informant. That, subsequently applicant backed off from marrying informant. Therefore, for committing serious offence, bail application is opposed.

4. Heard. Perused the FIR dated 03.10.2024 lodged on the report of victim dated 02.10.2024, who gave her age as 18 years 3 months and six days. She reported that, on 10.01.2024, she got engaged to present applicant in presence of family members of both sides. That, it was decided that on completion of 18 years, marriage would be performed. That, on 20.04.2024, when she had been to attend function of *haldi* on account of proposed marriage of brother of applicant, applicant called informant in a room and there was physical contact between them and since then they were both in contact on mobile given by him. She reported that on 25.09.2024, on account of abdominal pain, pregnancy test was conducted which turned out to be positive. Thereafter on 01.10.2024, when she accompanied her parents and aunt to the Civil Hospital, her pregnancy was confirmed and thereafter, above report is lodged.

5. Therefore, as pointed out, though informant and applicant were engaged in January 2024, on 20.04.2024 she was yet to attain age of 18 years. But again, as pointed out, said physical relations which took place on 20.04.2024 are not alleged to be against her wish, as at least the report indicates so. Again, inspite of detection of pregnancy in September 2024, report is lodged on 02.10.2024. Learned counsel for applicant has placed on record DNA report which excludes him from being biological father of the foetus. Now investigation is shown to be complete. No further recovery or discovery is shown to be made yet from him. Therefore, when further course of trial is yet to be chalked out and no charge is shown to be framed yet, applicant deserves relief as prayed. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Sopan Laxman Kharat be released on bail in connection with Crime No. 0477 of 2024 registered at Gangapur Police Station, District Aurangabad Rural, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:
 - [a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter the village where the informant and her family members reside, till conclusion of trial.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] The applicant shall attend the concerned police station once every week i.e. on every Thursday between 11.00 a.m. to 02.00 p.m. till committal of case and thereafter, shall regularly attend each and every effective date before the trial court.

III. The fees of the counsel appointed to represent respondent-original informant is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

[ABHAY S. WAGHWASE, J.]

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