



{1}

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 546 OF 2025

Samadhan @ Omkar S/o.Balajirao Shinde,
Age: 26 years, Occu.: Driver,
R/o. Vapati, Tq. Basmath, Dist. Hingoli. ... Applicant

VERSUS

1. The State of Maharashtra
through Police Station Vedantnagar,
Aurangabad, Tq. & Dist. Aurangabad

2. XYZ. ... Respondents

.....
Mr. B.N. Magar, Advocate for Applicant
Mr. V.M. Chate APP for Respondent No.1 – State
Mr. Pooja K. Apache, Advocate (appointed) for Respondent No.2
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 MAY 2025

PRONOUNCED ON : 08 MAY 2025

PER COURT :-

1. Instant application is for regular bail on account of arrest of applicant in Crime No.0200 of 2024, registered at Vedant Nagar Police Station, District Chhatrapati Sambhajnagar for offences punishable under Sections 137(2), 64 r/w 3(5) of the Bharatiya Nyaya Sanhita (BNS) and under Sections 4(1), 5(n), 6, 8, 9(I), 10 and 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

{2}

2. Learned counsel pointed out that, applicant is arrested in above crime dated 04.12.2024 on 24.12.2024. That, in all five persons are named. That, initially, there is complaint of kidnapping of minor girl against unknown person. That, subsequently, there are allegations of the commission of above offences. Learned counsel pointed out that, victim is over 17 years of the age, and has already attained the age of discretion. That, she was allegedly being to forcible sexual relations by four different persons, at four different times, and at four distinct places. That, she had herself left the house, and it is so appearing in her statement. That, as regards to present applicant is concerned, he is the last person to be named in the FIR. That, there is belated reporting. Learned counsel pointed out that, victim is habitual complainant, and similar allegations are levelled by her in the another FIR barely after two months of the present FIR. That, in spite of moving with various persons at various places, without any reason, she is subsequently levelling allegations of being forcibly raped. That, her version is also unworthy of credence. That, now investigation is over and charge-sheet is filed on 15.02.2025. That, no further recovery of discovery is to be made. That, there are no immediate prospects of matter going for trial and as case itself is not committed nor

{3}

charge is framed. For all above reasons, learned counsel urges for grant of bail on any conditions deemed fit by this Court.

3. Learned APP as well as learned counsel appointed to represent informant have strongly opposed on the ground that, victim is minor. Medical evidence is positive. They pointed out that, when victim left the house, disadvantage of her loneliness has been taken by five persons including present applicant. That, she being minor, there is no resistance or act from the victim. For all above reasons, they both opposed for grant of bail.

4. Heard. Perused the papers. Here, report dated 30.11.2024 is lodged by father of the victim, but it was regarding kidnapping by unknown persons. Victim's statement is visited, and it is apparently recorded on 20.12.2024. Victim gave her age at 17 years and some odd days. Substance of her report is that, she resides with her parents at the given address and was allegedly undergoing some classes and was in regular touch with her cousin Rohit Dhakare. She claims that, on 08.11.2024, her cousin made a phone call and asked her to come to meet him at Pusad. In spite of her denial, she claims that, he insisted, and therefore, without informing her parents, she went to meet him at Pusad, and then she claims that he picked her from bus stand

{4}

and then took her to the field and in the night, she claims that, he had forcibly sexual relations with her, and she returned back home on 09.11.2024. Thereafter, her cousin Rohit used to make her call and invite her at Pusad. Accordingly, on 23.11.2024, she again went to Pusad, and this time also, he came and took her to the field. She claims that, she spent two days with him in the field, and at that time also he had maintained forcibly sexual relations with her, thereafter, she came back to hostel on 25.11.2024.

She further reported that she could not focus on her studies and, out of fear that her parents would find out she was going to meet her cousin, she left the hostel on 30.11.2024. She traveled by train to Manmad, where she claims to have met a boy at a petrol pump. He offered her food. She claims that his name was Nikhil Bagade, and at his instance, she spent a night in the lodge and there she claims that, twice he forcibly had sexual relations with her. Again on 01.12.2024, she came to Parbhani, and there also she claims that she met one person and his name was Pradip Shinde. She further alleged that, he offered her job and took her at Vasmat, kept her in a room and there he forcibly had sexual relations with her. Finally, she claims that she came to Parali by train and from there she went to Latur and further

{5}

proceeded to Washi and then Shivajinagar, Pune and made a call to Omkar Shinde, who suggested her to come at Bhosari. At Bhosari, he took her on a motorcycle to his flat, there she claims that, he forcibly had sexual relations with her and staying 7 to 8 days. During such stay, Omkar @ Samadhan (present applicant) had twice sexual intercourse with her. Hence, she launched complain against her cousin Rohit of Pusad, Nikhil Bagade of Manmad, Pradip Shinde of Vasamat and Omkar alias Samadhan of Bhosari.

5. *Prima facie*, from the FIR it is emerging that other launched complaint about missing of his daughter from the house against unknown person is dated 30.11.2024. Victim is traced, and her Statement is recorded on 13.12.2024. As is emerging from her statement that, after having sexual relations with her own cousin Rohit she has herself left the hostel to go to Manmad and there she has named Nikhil Bagade for having forcibly sexual relation, and then at Parbhani where she has allegedly went on her own accord. She has named Pradip Shinde after having forcibly sexual relations on the pretext of offering job, and finally, she has named Omkar Alia Samadhan that is present applicant.

{6}

6. Charge sheet is placed on record, which contains copies of admission and leaving certificate issued by Sant Eknath Vidyalay Chittegaon, Taluka Paithan, which shows that she was in 4th standard in said school. That apart from there is a copy of Aadhar Card and school leaving certificate of above School which is carrying the date of birth, admission in said school is shown to be taken on 24.06.2017 in 5th Standard, and therefore, there is neither a birth certificate nor any school admission document with evidentiary value to support her age. Victim has given her age as 17 years and some odd days. Therefore, she is apparently below 18 years. Though, initially at her own accord, she went to Pusad, Manmad, Parbhani, and Bhosari and met present applicant, who seems to have forcibly sexual relations with her cousin, including present applicant other persons are also named.

7. *Prima facie*, disadvantage of her loneliness seems to have been taken. FSL report is still awaited. Resultantly, submissions made by learned council about girl herself left the hostel and maintained sexual relations with various persons, could not be sufficient to extend the benefit of bail. Hence, I proceed to pass the following order:

{7}

ORDER

- I. The Bail Application is rejected.
- II. Fees of learned counsel appointed to represent respondent no.2 be paid by the High Court Legal Services Sub-committee, Aurangabad, as per rules.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane