



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

938 BAIL APPLICATION NO.1117 OF 2025

**RAFIQ MAJID SHAIKH
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr.S.S.Jadhav
APP for Respondent-State : Mr.N.D.Batule
...

**CORAM : ARUN R. PEDNEKER, J.
DATE : 08.07.2025**

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is seeking bail as he is arrested on 12.04.2025 in connection with Crime No.105/2025 registered with Harsul Police Station, Aurangabad, for the offence punishable under Sections 64 (1), 351 (2), 351 (3) of the BNS.

3] The case against the applicant is that the victim lodged the FIR on 11.04.2025 alleging that she is resident of Padegaon. Before registration of the FIR i.e. prior to 10 to 11 months when she was working as labourer at construction site in Ajintha, she came to know the applicant

/ accused because he was visiting there. On one day when she was working, the applicant tried to talk with her. She was alone. He came near to her and asked her whether she wants water. The victim answered in the affirmative and while giving her water, the applicant caught hold her hand. She got angry and shouted on him. It is further alleged that on 02.04.2025, the victim was at Harsul T-point bus stop at about 2.00 p.m. and waiting for bus to go to Jalgaon, at that time, the applicant–accused came there in white-color Duster vehicle and asked her where she was going and she informed him that she was going to Ajintha. At that time he said to her that he was going to Ajintha and he will drop her till Ajintha. The victim agreed and sat in the car and that when they were proceeding towards Jalgaon near Harsul Garbage Depot, the applicant–accused asked her whether she needs water. After drinking water given by the applicant, she felt giddy. The applicant took the car near Sawangi pond and the victim asked him about it but he threatened her to keep quite by showing knife. She was frightened and was feeling uneasy. Thereafter, the applicant committed rape on her. As such, the FIR is registered against the applicant on 11.04.2025. The applicant is arrested on 12.04.2025. The charge sheet is filed on 09.06.2024.

4] The learned counsel for the applicant submits that the entire incident is concocted one and that the FIR is

registered against the applicant on 11.04.2025 after 9 days. He further submits that the applicant has filed Crime bearing No.64/2025 against his partner. In that crime, the applicant appeared on 02.04.2025 in the Court and filed his vakalatnama before the trial Court. On that day i.e. on 02.04.2025, he was present in the Court from 02.00 to 4.00 p.m. Therefore, he was not present at the spot at the time of incident. He further submits that in the FIR, the victim stated that she travelled from Padegaon to Harshul T-point at 2.00 p.m. as she had to go to her village Jalgaon and in supplementary statement dated 12.05.2025, the victim has stated that she had travelled from Padegaon to Harsul T-point between 3.00 to 4.00 p.m. On 16.04.2025, the police has also recorded another statement of co-passenger, who was travelling alongwith victim, is an auto rickshaw from Padegaon to Harsul T-Point and she has stated that they both got down the Harsul T-point at 4.30 p.m. He further submits that even the FIR is registered on 11.04.2025 after 9 days. He further submits that the applicant is in custody from 12.04.2025 and the charge sheet is filed in the matter. He further submits that there are no criminal antecedents against the present applicant. He further submits that the Doctor has examined the victim on 11.04.2025 in the hospital and she stated to the Doctor that the accused offered water to her and after drinking water, she became unconsciousness. She stated that she was lying on the road with all clothes on her body, then, she went to home. He

further submits that there is no mention about sexual assault before the Doctor. Considering the said fact, the bail should be granted in favour of the applicant.

5] *Per contra*, the learned APP submits that the victim has narrated history of assault before the Doctor on 11.4.2025 and she has stated time of incident as 3.00 p.m. The vehicle is seized from the nephew of the applicant i.e. owner of the vehicle, so also, knife is also recovered from the vehicle. He further submits that the bail should not be granted in favour of the applicant.

6] Having considered the rival submissions. The victim stated the time of incident in the FIR as 2.00 p.m. on 02.04.2025 and in the supplementary statement the victim stated the time of incident between 3.00 to 4.00 p.m. The applicant has lodged FIR No.64/2025 against his partner and in the said proceedings on 02.04.2025 the applicant has contended that he was present in the Court from 02.00 to 4.00 p.m. After preliminary investigation when it is noticed that the applicant was present in the Court premises, the possibility of shifting of time of offence from 2 p.m. to 3 p.m. and thereafter at 4.30 p.m. cannot be ruled out. Also, the victim has narrated a different story to the Doctor, where the alleged sexual assault is missing. Considering the above fact, possibility of implication cannot be ruled out, so also, considering that the investigation is complete and that

there are no criminal antecedents against the present applicant and the applicant is in custody from 12.04.2025, the applicant is granted bail. The application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No.105/2025 registered with Harsul Police Station, Aurangabad, for the offence punishable under Sections 64 (1), 351 (2), 351 (3) of the BNS, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail,

shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

7] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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