



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

949 BAIL APPLICATION NO. 1302 OF 2025

SHAHRUKH YUNUS SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Surse Sunil B

APP for Respondent/State : Mr. G.O. Wattamwar

Advocate for Respondent 2 : Ms. Pooja Kishor Apache (appointed)

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CORAM : ARUN R. PEDNEKER, J.

DATE : 08/08/2025

P.C. :

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and Ms. Pooja Apache, learned counsel appointed for respondent No. 2.
2. The applicant is seeking bail as he is arrested in connection with Crime No. 149/2024 dated 23.4.2024 registered with Phulambri Police Station, District Aurangabad for the offences punishable under sections 376, 376-AB, 452, 506 of I.P.C. and sections 4,8 and 12 of the POCSO Act and section 3(1) (w)(i)(ii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act.
3. The case of the prosecution is that the incident took place on 21.4.2024 at about 2.30 p.m. One person wearing black veil had entered in the house of the informant when two daughters of the informant and two daughters of the brother of the informant were present. It is stated that the person entered in the house showed knife to the girls and had taken there to them in another room. It is stated that when the victim tried to climb on cot, she fell down. Thereafter, the unknown person threatened the three girls. He torn the clothes of the victim girl who had fallen down and removed her clothes. Thereafter,

the unknown person wearing veil forcibly committed sexual intercourse with the victim girl and ran away. The victim girl became unconscious. It is stated that the person had committed penetrative sexual assault over the victim. It is stated that during the course of investigation, father of the victim intimated to the police that prior to the date of offence, he had some dispute with the present applicant. Later a supplementary statement of the informant came to be recorded in which the informant has taken the name of the present applicant as the person who has committed the offence. Accordingly, crime is registered against the applicant for aforesaid offence. The applicant was arrested on 25.4.2024 and since then he is behind bars. The applicant has filed application for bail before the trial Court, however, the same is rejected. Therefore, present application is filed for regular bail before this Court.

4. The learned counsel for the applicant submits that identification of the accused was not possible as in the statement of victim it is stated that the offence is committed by the person, who was wearing black veil with only eyes being seen. It is further stated that in the thumb of left leg he was wearing black thread, wearing chappal and on the mobile there was tatoo of butterfly. The learned counsel submits that after arrest the applicant was neither found wearing black thread on the toe finger or mobile is also not recovered from the applicant with butterfly tatoo nor any recovery is made at the instance of the applicant. It is stated that chappal worn by the applicant is seized, however, in the chargsheet there is no mention of chappel. The learned counsel submits that investigation in the matter is complete and chargesheet is filed and there is no evidence on record to connect the applicant with the present crime. The learned counsel submits that the applicant is in custody for more than one and half years and only on the basis of suspicion. The learned counsel therefore prays to release the applicant on bail.

5. Per contra, the learned APP submits that one of the girl present in the room identified the applicant during T.I. parade and prays to reject the application of the applicant.

6. In response to above contention of APP, the learned counsel for the applicant submits that the T.I. parade is held after one and half months after the arrest of the applicant in the present crime and therefore, the result of the T.I. parade itself is doubtful.

7. Considering that the applicant is in jail for long period of time i.e. more than one and half years and evidence connecting the applicant with the present crime is weak. Evidence is available only in the form of T.I. parade, which is held after one and half months of the arrest of the applicant. It is not known how the girl identified the applicant. Considering all above material, I hold that bail can be granted to the applicant in the present crime by putting stringent conditions.

8. In view of the above, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No. 149/2024 dated 23.4.2024 registered with Phulambri Police Station, District Aurangabad for the offences punishable under sections 376, 376-AB, 452, 506 of I.P.C. and sections 4,8 and 12 of the POCSO Act and section 3(1)(w)(i)(ii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 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 shall not enter the village Naigaon Bardevasti till the conclusion of the trial.

c] The applicant, upon being released on bail, shall not contact the informant, witnesses or victim in any manner whatsoever, during the

pendency of the trial.

d] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing. If the applicant remains absent for consecutive two dates during trial, the bail granted shall be liable to be cancelled.

e] 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.

f] 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.

9. 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.

10. 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.

11. The application stands disposed of.

12. Fees of Rs.10,000/- be paid to the learned counsel appointed for respondent No. 2.

[ARUN R. PEDNEKER, J.]

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