



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1785 OF 2024

Rohit s/o Raju Chandrawanshi
Age: 23 years, Occu. Mechanic,
R/o Village Laling,
Tq. and Dist. Dhule.

... Applicant
[Orig. Accused]

Versus

1. The State of Maharashtra
Through Mohadi Nagar Police Station,
District Dhule.

2. XYZ

... Respondents

.....
Mr. Chaitanya C. Deshpande, Advocate for the Applicant.
Mr. V. M. Jaware, APP for Respondent No.1-State.
Mr. Chetan B. Chaudhari, Advocate for Respondent No.2.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 31.01.2025

Pronounced on : 03.02.2025

ORDER :

1. This is a regular bail application on account of arrest of the applicant in crime no. 181 of 2024 registered at Mohadi Nagar Police Station, District Dhule for offence under Section 304 r/w 34 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act].

2. Learned counsel pointed out that applicant is arrested in above crime on 07.06.2024 with regard to FIR registered on 06.06.2024. He

pointed out that initially crime was registered for offence under Section 302, but after completion of investigation, such offence is dropped and offence is brought down to Section 304 IPC. Taking this Court through the FIR as well as statements, it is pointed out that deceased and applicant were young boys who were friends. That, there was no intention and while doing mischief with each other, the alleged incident had taken place. That, there was no *mens rea*, no enmity or quarrel on any count. That, unfortunately deceased died on the next day due to hemorrhage. That, now chargesheet is already filed on 02.08.2024. Applicant is behind bars since more than six months and when nothing is shown to be recovered or discovered at his instance, learned counsel urges for relief on the ground that applicant is barely 23 years of age.

3. While opposing the bail application, learned APP as well as learned counsel for complainant submitted that cruel act has been committed by applicant and co-accused. They have inserted pipe in the anus of victim, also a boy of young age, and they have opened the valve of air compressor meant for filling air in vehicles. That, the air pressure caused damage to internal vital organs and deceased succumbed to the same. Therefore, with such serious allegations, they both opposed any relief.

4. Heard. Perused the FIR dated 06.06.2024. One Md. Mujahid Alam who runs puncture repair shop, lodged report that on 06.06.2024, while he along with deceased were at their shop, Rohit Raju Chandrawanshi i.e. present applicant and Shivaji Laxman Sule, who worked in adjoining garage, had come at 08.30 a.m. That, around 10.00 a.m. informant left for home and deceased remained at the puncture repair shop with applicant and said Shivaji. Informant claims that around 11.00 a.m. when he returned to the shop, he learnt from one Salim, manager of a hotel, that Shivaji caught hold of deceased and present applicant pulled down his trouser, opened the cock of compressor machine and inserted the pipe through anus and air pressure entered his body and was required to be taken to hospital. Deceased expired on the next day and autopsy surgeon opined death due to hemorrhage and shock due to injuries noted in column nos.17 and 21. Learned counsel for complainant pointed out that doctor has opined some of the injuries, i.e. injury nos. 2 and 3, to be due to use of hard and blunt object and therefore, it is his submission that, incident was not while making mischief or fun and it is something otherwise. However, this is just opinion expressed by autopsy surgeon. Statements to which attention of this Court has been invited, i.e. of Salim Charoliya and Smit Lodaya, claim that they had seen the above incident. They have stated that the boys were playing

by chasing each other and trying to catch each other and were indulging in some mischief with each other. Though there are charges of POCSO Act, the same are attracted because of above act of applicant. Now investigation is said to be over. Nothing is shown to be recovered or discovered at the instance of applicant. Papers *prima facie* show that unfortunate incident had taken place while accused and deceased, who were friends, indulged in mischief. Considering such background and the offence with which the applicants are chargesheeted, no fruitful purpose would be served by continuing further detention of the applicant. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Rohit s/o Raju Chandrawanshi be released on bail in connection with Crime No. 181 of 2024 registered at Mohadi Nagar Police Station, District Dhule, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount.
- III. The applicant shall not tamper prosecution evidence.

[ABHAY S. WAGHWASE, J.]