



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

BAIL APPLICATION NO.2010 OF 2024

Sachin S/o Kailash Chotmal

Age: 23 years, Occu.:

R/o. Umravati, Tq. Phulambrei,

District : Aurangabad.

... Applicant

Versus

1. The State of Maharashtra
Through Police Station Wadod Bazar,
Tq. Phulambre, Dist. Aurangabad.

2. XYZ

... Respondents

.....

Ms. Surekha G. Chincholkar, Advocate for Applicant

Mr. N.D. Batule, APP for Respondent No.1 – State

Ms. Pooja Apache, Advocate for Respondent No.2

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 JANUARY 2025

PRONOUNCED ON : 23 JANUARY 2025

ORDER :

1. On account of arrest of the applicant in Crime No.0198 of 2024 registered at Wadodbazar Police Station, District Aurangabad, for offences punishable under Sections 64, 64(1), 64(2)(m), 115(2), 351(2), 351(3), 137(2) of the Bharatiya Nyaya Sanhita [BNS] and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act], applicant pressed into service instant bail application.

2. Pointing out that the applicant is behind bars since 11.07.2024, learned counsel submitted that, there was love affair. That, victim herself was acquainted with the applicant. That, he brought her back and dropped her at the school. That, whatever happened was consensual. That, applicant did not abscond and therefore, his such conduct deserves consideration. Learned counsel pointed out that, there was no force nor assault on victim. That, even statement of victim recorded under Section 164 of the Code of Criminal Procedure is silent to that extent. That, now applicant being behind bars since more that five months, learned counsel seeks grant of regular bail.

3. Learned APP as well as learned counsel appointed for victim have strongly opposed the application on the ground that victim is barely 14 years and few months old. She was initially kidnapped. That, on medical examination, injuries were noticed by medical expert. That, offence is serious. That, there is proof about victim being minor and, according to both of them, there are allegations of threats. Learned counsel for victim pointed out that, victim was hospitalized for almost a week. That, as serious offence is committed on a minor, they both opposed the application.

4. After going through the FIR and papers, it transpires that FIR is at the instance of minor's uncle Tulshiram Sonawane. Victim is said to be 14

years of age. There are allegations that on 11.07.2024, call was received from the school that victim is not in the school. The acquaintance of informant, namely Pawan, informed that victim was returning home weeping and therefore she was questioned, wherein she has named the present applicant, who took her to the urinal of a closed beer bar at Khamgaon Phata and forcibly raped her. Statement of victim was recorded under Sections 161 as well as 164 of the Code of Criminal Procedure. On going through the medical papers, it seem that 9 to 10 injuries are noticed of several parts of the person of victim. As regards to age is concerned, there is no dispute. Provisions of POCSO Act are shown to be attracted.

5. In the light of above and on going through the papers, even though charge-sheet is filed, taking into account the gravity of offence, this Court is not inclined to grant bail. Hence, the following order :

ORDER

- (i) Application is rejected.
- (ii) Fees of learned counsel appointed to represent respondent no.3 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per Rules.

**ABHAY S. WAGHWASE,
JUDGE**