



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2022 OF 2024

Rushikesh s/o Bhausahab Gaikwad,
Age 20 years, Occu: Education,
R/o Parsoda, Tq. Vaijapur,
District Aurangabad.
(At present Applicant is in Jail)

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Police Station,
Vaijapur, Tq. Vaijapur,
District Aurangabad.

2. X Y Z

... Respondents

.....
Mr. Sunil V. Salve, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent No.1-State.
Ms. Namita Thole, Advocate for Respondent No.2 (appointed)
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 03.02.2025

Pronounced on : 05.02.2025

ORDER :

1. Applicant seeks grant of regular bail in crime no. 161 of 2024 registered at Vaijapur Police Station, District Chhatrapati Sambhajinagar Rural for offence under Section 376(2)(I) of IPC.

2. Learned counsel pointed out that applicant is arrested in above crime on 07.03.2024. According to him, there is false implication.

That, victim is more than 30 years of age. There is no corroborative medical evidence in support of allegation of rape. That, in fact applicant and victim are relatives. That, he is behind bars since long. Now investigation is over and chargesheet is also filed and hence learned counsel seeks his enlargement on regular bail.

3. Learned APP opposed on the ground that serious offence has been committed. That, victim is differently abled i.e. mentally challenged. That, she has been exploited. Report is by brother. Therefore, with such allegations, applicant is arrested and chargesheeted. Learned APP expressed possibility of misuse of liberty as both, victim and accused, are acquainted and related.

4. learned counsel appointed on behalf of victim also opposed on the ground that there is forceful rape. That, medical opinion has not ruled out sexual assault and for such reasons, she also opposed relief.

5. Heard. Perused the papers. Informant brother has reported that his elder sister, who is 35 years of age, is mentally challenged since birth. He has reported that on 04.03.2024, when he went to bring his sister from his paternal aunt's place and reached there in the early morning, he noticed present applicant sleeping with his sister in nude

condition. After bringing her home, when she was inquired with, she reported that she was forced upon. Resultantly, here, a mentally challenged lady has been sexually ravished and exploited. Submissions that there are no medical injuries suggesting force has no substance. Taking the above material into consideration, I proceed to pass the following order:

ORDER

- I. The application is dismissed.
- II. Fees of the learned counsel appointed to represent no.2 be paid by the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

[ABHAY S. WAGHWASE, J.]

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