



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2104 OF 2024

Mukesh S/o Mohan Rawal,  
Age : 21 years, Occu. : Labour,  
R/o. : Gopalpura, Tq. Bhojpura,  
Dist. Bhilwada, State - Rajasthan,

Presently residing at Dongaon Road,  
Lasur Station, Tq. Gangapur,  
Dist. Chhatrapati Sambhajinagar

... Applicant

Versus

1. The State of Maharashtra,  
Through Sillegaon Police Station,  
Tq. Gangapur,  
Dist. Chhatrapati Sambhajinagar

2. X.Y.Z.

... Respondents

.....

Mr. Vishal A. Bagdiya, Advocate for Applicant.

Mr. V. M. Jaware, APP for Respondent- State.

Mr. Sandip Andhale, Advocate for Respondent No.2 (Appointed through Legal Aid).

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 02 APRIL 2025**

**PRONOUNCED ON : 03 APRIL 2025**

**ORDER :**

1. Present applicant seeks regular bail on account of his arrest in Crime No.237 of 2024 registered at Sillegaon Police Station, Tq. Gangapur, Dist. Aurangabad for offences punishable under sections 376, 376(3), 366(A), 363 of Indian Penal Code and sections 4, 6, 8 and 12 of POCSO Act.

2. Learned counsel for applicant pointed out that, information by father of the victim who is 15 years and 10 months old and as such on the verge of attaining majority. Apparently, there was love relations. According to learned counsel, story narrated by victim is unbelievable, as according to him, it is not possible to have sexual intercourse while traveling along with other passengers in one bus. He pointed out that, medical report do not suggest any history or injury. According to him, though girl is said to be 15 years of age, learned counsel emphasized that, there is no date of birth certificate in the charge sheet, rather school extract, which is not even of first school of the admission where she allegedly took admission, is gathered. Therefore, according to him, even there is no concrete evidence about victim to be a minor. Lastly he submitted that, investigation is over and charge sheet is filed in September 2024 itself. According to him, when there is no further recovery or discovery is to be made and when medical examination is also got done, his further custody is unwarranted and as applicant is ready to abide all and any conditions imposed by this court, learned counsel urges for grant of bail.

3. Learned APP as well as learned counsel appointed to protect the interest of informant have both opposed on the ground

that victim is a minor. That, there are serious allegations of rape. According to learned APP, medical opinion is received about possibility of sexual assault. According to learned counsel, informant and victim herself has given statement that she was forcibly taken. That, moreover applicant is of Rajasthan and so learned counsel expresses apprehension of misuse of liberty. On above counts, application is opposed.

4. Perused the papers. Father reported that on 23.06.2024, his daughter aged 15 years, who studied in 10<sup>th</sup> standard, went to market for purchase of school bag, but she did not return and therefore, he lodged missing report.

5. Statement of victim girl is recorded, but on 27.06.2024 i.e. after three days of FIR by father. She has reported that, one month back she went to eat ice-cream on a cart near HDFC bank in the vicinity of Lasur railway station. She got acquainted with ice-cream seller i.e. present applicant and she claims that their acquaintance grew into love relations and they started calling each other on mobile. According to her, applicant offered to marry her after taking her to his native at Rajasthan and keep her happy, but she claimed to have refused as her parents would not agree and she is yet to achieve 18 years of age. But, he even offered to

approach her parents to seek her hand for marriage and was making necessary preparations for marriage.

She further reported that, on 23.06.2024 getting upset with her mother for not giving Rs.500/- for purchase of a bag, she left the house and alone went and sat near railway station road. She even claims to have seen her sister and mother towards the weekly bazar for purchasing bag for her, but she did not approach and talk with them.

She further reported that, around 6:30 p.m., while she was on the road, near Nutan Vidyalaya in the vicinity of railway station, applicant came there on motorcycle and questioned her for sitting alone and she told him that in anger she has left the house and thereafter he again offered her to accompany him to his native and then she claims that he forcibly made her sit on the motorcycle, took her to the travel agency and as they did not get ticket to travel to Surat, they purchased ticket to go to Surat via Mumbai and then she claims that while in the journey against her wish, he forcibly have physical relations with her, saying that, now they are going to get marriage. According to her, on 24.06.2024 they reached Mumbai and from there reached to Surat and when they went to house of sister of applicant, his sister and brother-in-

law asked her to go back to her parents. She claims that, as she was afraid of her parents, she suggested that she be dropped at her maternal uncle's place at Buldhana and accordingly applicant allegedly dropped her there. Her parents were informed, they came and she accompanied them to police station.

6. Learned counsel for applicant submits that, there was long acquaintance and love relations. He emphasized that, victim has herself left the house under guardianship of her parents and she was not kidnapped. Moreover, he also questions her age as according to him school extract gathered by investigating machinery is not of the first school where she got admitted. He also questions the offence of rape as according to him it is impossible to commit forcible act in journey in a travel bus occupied by others.

7. Learned APP as well as learned counsel for informant have opposed on the ground that victim being below 18 years, offence does get attract. They also apprehend misuse of liberty because applicant being from Rajasthan.

8. After going through the FIR and more particularly statement of victim, it does emerge that, victim has left the house in anger on her own accord. Her statement shows that, while she

was sitting alone on the road, applicant had by chance met her there. Her statement does not show that he had called her. Though it seems that he forcibly made her on the motorcycle to go to travel office, prima facie it appears that she joined him without any resistance. She also seems to have agreed to accompany him to Surat and was with him while booking was done to go to Surat via Mumbai. Her statement is that, in the journey in travel bus applicant had physical relations with her against her wish. Whether such act is possible or not cannot be gone into at this stage in a bail application. However, her statement shows that, subsequently, when sister of applicant asked her to go back, she chose to go back to her maternal uncle at Buldhana and accordingly applicant himself has dropped her there and from there her parents seems to have come to pick her up.

9. As submitted, there is no birth certificate and investigating machinery has gathered school admission extract having date of birth, but admission is of July 2015 and it is not the first school where she took admission for the first time.

10. Therefore, taking above material into consideration and as now charge sheet is filed and no further recovery and discovery is shown to be made, apprehension of misuse of liberty

can be taken care of by imposing stringent conditions. Hence, the following order is passed :-

**ORDER**

I. The application is allowed.

II. Applicant Mukesh S/o Mohan Rawal be released on bail in connection with Crime No.237 of 2024 registered with Sillegaon Police Station, Tq. Gangapur, Dist. Aurangabad, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter the vicinity where the informant and her family members reside and where she is studying, till conclusion of trial.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday and maintain personal diary of his attendance till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

**(ABHAY S. WAGHWASE, J.)**