



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2106 OF 2024

Mangesh S/o. Suresh Lahunde,  
Age : 22 years, Occu. : Labour,  
R/o. : Saraswati Colony, Ward No.7,  
Shrirampur, Tq. Shrirampur,  
Dist. Ahmednagar.

... Applicant

Versus

1. The State of Maharashtra,  
Through Police Station In Charge,  
Shrirampur City Police Station,  
Tq. Shrirampur, Dist. Ahmednagar.

2. X.Y.Z.

... Respondents.

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Mr. Vijay B. Jagtap, Advocate for Applicant  
Mr. N. D. Batule, APP for Respondent - State  
Mr. Joydeep Chatterji, Advocate for Respondent No.2

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

**RESERVED ON : 06 JANUARY, 2025**

**PRONOUNCED ON : 08 JANUARY, 2025**

**ORDER :**

1. Applicant invokes section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS Act") to seek relief of regular bail on account of his arrest in Crime No.0889 of 2024 registered at Shrirampur City Police Station, Shrirampur, Dist. Ahmednagar for offence punishable under sections 137(2), 64(i) (m) of BNSS Act and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act").

2. Learned counsel for applicant pointed out that, applicant is arrested on 06.10.2024. That, after three days of police custody, applicant is in M.C.R. Learned counsel pointed out that, victim seems to be 17 years and some months old. That, initially her parents lodged missing report. That, there was love affair between applicant and victim. That, victim after 21 days of missing, lodged report implicating present applicant for above offence. That, her narration is false and afterthought, and at the behest of her parents and police. Learned counsel pointed out that, victim herself denied any sexual offence for any physical or mental offence while she was examined by medical authorities. That, document to that extent is also part of charge-sheet. That, informant mother and victim girl are changing versions time to time raising credibility of their versions. That, applicant, who is in his early twenty's, is behind bars since long period. Now, entire investigation is almost over. That, there is no recovery or discovery to be made for him and therefore, there is no need for his further custody. It is pointed out that, learned trial court has on one hand observed about earlier statement of victim and statement given at later point of time under section 164 Cr.P.C., however, rejected the application without assigning plausible reasons. Hence, he urged for grant of bail.

3. While opposing the bail application, learned APP pointed out that, victim is below 18 years of age. Her birth certificate is on record. Therefore, according to him, the stand of acquaintance or love affair loses its significant. He pointed out that, victim herself gave her statement and specifically stated whatever acts applicant indulged into. That, she was taken to places on the pretext of marriage. On this count, learned counsel took this court through the statement of the victim. Alleging commission of serious offence, learned APP prays to reject the application.

Learned counsel for complainant also pointed out that though victim has given some initial statement, it was under pressure. That, there are clear observations to that extent in the order of learned trial court and hence he too opposes the application for bail.

4. After considering the above submissions and on going through the papers, it appears that, report is at the instance of mother of victim on 14.09.2024 regarding missing of her daughter at Shrirampur City Police Station. She has specifically alleged that, she is sure that, some unknown person for unknown reason has lured her daughter.

In the statement of victim, which seems to be recorded

on the next day i.e. on 15.09.2024, she has stated that, after failing in exam and on account of quarrel with mother, she herself left her house in anger and went to Shirdi and later on to Nashik and that no one lured her and that she has no complaint. Injury certificate dated 16.09.2024 i.e. immediately her appearance in police station issued by Sub District Hospital, Shrirampur carries remark that, *“patient denies any king of physical, mental or sexual assault and denied medical examination”*.

Thereafter, papers show that, on 15.09.2024, statement of informant was also recorded by Shrirampur City Police Station and she too reiterated that her daughter was not lured by anyone and that too due to domestic quarrel, her daughter left the house and the girl is back with her and as such she has no complaint.

5. It further emerges that, again on 06.10.2024 accompanied by her mother and grandmother, victim approached police station and narrated that in April 2024, when her mother set up a food stall in a fare, present applicant came in her contact, initially approached her on Instagram and later on developed telephonic contact. She further alleged that, in September 2024, he initially called her at a temple, took her on his motorcycle at his grandmother's place and there some quarrel taking place between

them. She has also alleged that during stay at his grandmother's place, against her wish, he had physical relations with her and on next day they went to Kopargaon and from there she was brought by his aunt and again dropped at Shrirampur.

Thus, her above statement is almost after three weeks of her alleged missing and after being back in custody of informant mother. Papers show that, as discussed above, during first medical examination, she did not report any act of sex either forceful or otherwise and moreover refuse to submit her medical examination denying any mental or physical assault. Papers also show that, she was again produced before medical authorities on 06.10.2024 i.e. on allegation of sexual assault. Said report shows that opinion about sexual assault is kept pending till receipt of FSL analysis. Learned APP did not point out current position as to when said FSL report would be available, however, apparently victim is subjected to medical examination after three weeks.

6. Thus, what transpires from the papers and charge-sheet is that, on the day of occurrence, girl is 17 years and some months old. Initially, report is about missing, but victim herself reported police that she had left the house on account of anger. Even mother confirms and gives a statement that she has no complaint against anyone i.e. by virtue of statement dated

15.09.2024. on 06.10.2024, while in custody with parents and informant, after 21 days, above allegations of physical intimacy against her wish are alleged. As pointed out that, both, victim and her mother appears to be changing their statements before police as well as learned Magistrate. Therefore, with such material and when there is no concrete opinion about sexual assault and further when there is no convincing reason to further detain the applicant, relief as prayed deserves to be granted. Hence, the following order is passed :-

**ORDER**

- (i) Application is allowed.
- (ii) Applicant Mangesh S/o. Suresh Lahunde be released on bail in connection with Crime No.0889 of 2024 registered with Shrirampur City Police Station, Shrirampur, Dist. Ahmednagar on executing P.B. of Rs.15,000/- with one surety in the line amount.
- (iii) Applicant shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.
- (iv) Applicant shall not tamper prosecution evidence.

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