



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

BAIL APPLICATION NO. 2118 OF 2024

. Mahesh @ Mangesh S/o. Suresh Sathe
Age: 22 years, Occu.: Labour,
R/o. Ekwadi, Village : Haregaon,
Tal. Shrirampur, Dist.Ahmednagar.Applicant

Versus

1) The State of Maharashtra
2) XYZRespondents

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WITH

BAIL APPLICATION NO. 2121 OF 2024

. Yogesh S/o. Sitaram Patekar
Age: 22 years, Occu.: Labour,
R/o. Village : Vadala Mahadev,
Tal. Shrirampur, Dist.Ahmednagar.Applicant

Versus

1) The State of Maharashtra
2) XYZRespondents

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Advocate for Applicants : Mr. Shaikh Joyeb I.
APP for Respondent no.1: Mr.PK.Lakhotiya
Advocate for Respondent no.2 : Ms. Smita Chole (Kendre)
(Appointed)
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 JANUARY, 2025

PRONOUNCED ON : 23 JANUARY, 2025

ORDER :

1. Both above regular bail applications are arising out of one and the same Crime bearing no.354 of 2024 registered at Shrirampur Taluka Police Station, Ahmednagar for offence under Sections 363, 366(A), 376(2)(n), 109 read with 34 of the Indian Penal Code (IPC) (under Sections 137(2), 96 and 64 of the Bharatiya Nyaya Sanhita), under Sections 4, 8, 12, 16, 17 of the Protection of the Children from Sexual Offences Act (POCSO Act) and under Sections 3, 25 of the Arms Act.

2. Learned counsel for both above applicants would submit that there were allegations of initially kidnapping victim daughter of informant, however, the victim herself left the house on her own accord. That, there were acquaintances of victim with Yogesh Sitaram Patekar i.e. applicant in Bail Application No.2121 of 2024. He further submits that Mahesh @ Mangesh S/o. Suresh Sathe i.e. applicant in Bail Application No.2118 of 2024 merely happens to be a friend of above applicant Yogesh. That, initial FIR was against unknown persons. That, subsequently, on the information allegedly given by victim, informant father has named present applicants by giving supplementary statement at a belated stage. Learned counsel

pointed out that as regards applicant Mahesh @ Mangesh is concerned, there are no allegations whatsoever either of kidnapping or committing any other offence. That, there is no incriminating material against him in entire chargesheet. That, all accusations are against applicant Yogesh, who had relations with victim. That, even allegations against applicant Yogesh are levelled at the instance of and on pressure by parents of victim. That, applicants are behind bars since long. That the victim girl is back in the custody of parents. That investigation is almost over. That nothing further is to be recovered or discovered from the applicants and hence, prayers raised in both applications are urged to be granted.

3. While opposing the application, learned APP as well as learned counsel appointed for victim pointed out that victim is a minor girl and her age was 15 years at the time of incident. That, threats were issued to the victim to leave the house by pointing gun. That, the minor, out of fright and fear, left the house and that she clearly gave statement that she had no relations whatsoever with accused Yogesh. That, she was forced and threatened. Learned APP pointed out that main accused is Yogesh and accused no.2 Mahesh @ Mangesh is his close friend. It is pointed out that, when the girl was taken away

from her home, said applicant Mahesh @ Mangesh was in the company of main accused Yogesh. Therefore, he has assisted in kidnapping girl and later on main accused had sexual relations with the minor girl against her with. That serious crime is thus having been committed, both have strongly opposed grant of bail.

4. Heard. Perused the papers. Apparently, FIR seems to be at the instance of father of victim on 03-06-2024 regarding minor daughter studying in 10th standard being lured and kidnapped by unknown persons resulting into registration of Crime no.354 of 2024. Supplementary statement of informant seems to be recorded on 07-08-2024 wherein he has reported that, his victim daughter, after being brought from the custody of accused Yogesh and his family members, she informed that by pointing gun, accused Yogesh forced her to accompany him on the night of 02-06-2024 and took her to Bhalgaon, Tq.Vaijapur and thereafter, to Dak-Pimpalgaon and later on in Gujarat. Informant told that, his daughter also informed that on various occasions, accused Yogesh raped her and that he was assisted by his friend accused Mahesh @ Mangesh, Akshay Tribhuvan and his sister Pallavi, resident of Gujarat. On above information, father has given supplementary statement. Thereafter, investigation seems to

have been carried out including medical examination of victim and crime seems to be converted into above offences alongwith offence of kidnapping, rape, and victim being minor, provisions of POCSO Act seem to have gravitated.

5. On going through the papers on record, it is *prima facie* emerging that on the night of 02-06-2024, applicant Yogesh allegedly pointed Gun and made the victim leave her house. Though victim, in her statement, named applicant Mahesh @ Mangesh to be present with main accused Yogesh and they both made her sit on motorcycle, she has reported that, thereafter, Mahesh @ Mangesh went his house and therefore, name of Mahesh @ Mangesh is not appearing in the events and episodes taking place thereafter.

6. Learned APP has pointed out that, several crimes were registered against both the applicants and as such they have criminal antecedents. However, considering the accusations against applicant in Bail Application No.2118 of 2024, i.e. Mahesh @ Mangesh Suresh Sathe, to whom mere role attributed is of being present with main accused Yogesh who had alleged liking with the victim girl, such applicant alone deserves relief. Taking into account the allegations

against accused Yogesh, who has moved Bail Application No.2121 of 2024, his application deserves to be turned down. Hence, the following order :

ORDER

- (i) Bail Application No.2118 of 2024 is allowed.
- (ii) Applicant Mahesh @ Mangesh S/o. Suresh Sathe be released on bail in connection with Crime no.354 of 2024 registered with Shrirampur Taluka Police Station, Ahmednagar on executing Personal Bond of Rs.15,000/- with one surety in the like amount, on following conditions: -
 - (a) He shall not tamper prosecution evidence.
 - (b) He shall not enter Ekwadi, Haregaon, Tq.Shrirampur, Dist.Ahmednagar , till conclusion of the trial.
- (iii) Bail Application No.2121 of 2024 is rejected.
- (iv) Fees of the learned counsel appointed for respondent no.2 in both applications is to be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per Rules.

(ABHAY S. WAGHWASE)
JUDGE