



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2185 OF 2024

Rahul s/o Shankarrao Wadhve
U.T. No. 85/24
Age: 44 years, Occu. Nil,
R/o at Present : UT No. 85/2024,
Old Circle, Central Prison, Harsool,
Chh. Sambhajnagar,
District Chhatrapati Sambhajnagar.

... Applicant

Versus

1. The State of Maharashtra
2. A. B. C. (since minor),
Through her mother,
X. Y. Z.

... Respondents

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Mr. Siddhant S. Varma, Advocate for the Applicant.
Mr. V. M. Chate, APP for Respondent-State.
Mr. Joslyn A. Menezes, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 03.03.2025

Pronounced on : 05.03.2025

ORDER :

1. This is a regular bail application on account of arrest of the applicant in crime no. 461 of 2021 registered at Chavni Police Station, District Chhatrapati Sambhajnagar for offence punishable under Sections 354, 323, 506 of IPC and Sections 9(m)(n), 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act].

2. Learned counsel for the applicant pointed out that present application is received through jail. That, applicant is arrested in above crime on 03.08.2021. Since then, he is languished in jail. Investigation is over and chargesheet is already filed in 2021 itself. That, considering the nature of allegations, nothing further is to be recovered or discovered at this instance. That, victim is his own daughter. That, maximum sentence for the above offences, even if proved, is seven years. That, as on today, applicant has already undergone half of the sentence. Therefore, on account of long pre trial incarceration, learned counsel seeks grant of bail.

3. Learned APP as well as learned counsel for the victim have both strongly opposed on the ground that serious offence is committed on none other than daughter. Report to that extent has been received, resulting into registration of crime. That, applicant himself is responsible for the delayed trial as he is tendering applications after applications. Both, learned counsel for the victim as well as learned APP, pointed out that report of trial Judge is received in above matter, wherein reason for prolonged trial is reflected. Therefore, for such serious allegations, they both seek rejection of application.

4. Heard. Perused the papers. Before going into the merits, as pointed out, there seems to be report from the learned Special Judge, Aurangabad dated 11.02.2025, wherein it is conveyed to this Court that as per chargesheet, 14 witnesses are proposed to be examined by prosecution. That, till date 2 witnesses are already examined and the same were panchas, however, prime witnesses are yet to be examined. It is further conveyed that accused conducts the matter himself and he is consuming lot of time for recording evidence. That, he is also tendering several miscellaneous applications, hearing of which also take considerable time. That, accused has also moved several petitions before the appellate courts. That, he does not conduct the matter promptly and he is very adamant and insists for transfer of case. That, due to his cantankerous nature, it has become impossible to conduct the matter and that it would take almost a year or more to conclude the same.

5. Thus, as submitted by both, learned APP as well as learned counsel for the informant, though case is committed as special case since 2021, copy of *rozanama* shows that since framing of charge on 24.11.2021, matter is posted for evidence, order on exhibit, hearings, again evidence on 06.06.2022 and thereafter again hearings up to 18.11.2022. Since then, matter is shown to be on the file of District

Judge-4 on the stage of evidence till 22.05.2023 and thereafter again matter is shown to be on the file of District Judge-8 on the same stage of evidence till 22.01.2025, and on that date, part evidence is recorded and matter is shown to be on the same stage up to 15.03.2025.

6. Therefore, from the case status, since committal and framing of charge, only two witnesses are examined out of 14 witnesses. Going by the report of learned trial Judge, applicant is also to be equally blamed and therefore, it is not open for the applicant to blame prosecution for his long incarceration. If he undertakes and even if learned trial Judge, who is seized with the matter, draws particular calendar and confines to the dates, going by the strength of the proposed witnesses, there are good chances of matter coming to an end. Therefore, when two witnesses are already examined, this Court does not find it a fit case for extending relief of bail as prayed for. Hence, following order :

ORDER

The application is rejected.

[ABHAY S. WAGHWASE, J.]