



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2210 OF 2024

Prakash S/o. Kashinath Pande,
Age : 25 years, Occu. : Labour,
R/o. Balegaon, Tq. Umari,
Dist. Nanded.

... Applicant

Versus

1. The State of Maharashtra,
Through Nanded Rural Police Station,
Taluka and District Nanded.

2. X.Y.Z.

... Respondents.

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Mr. Prashant P. Giri, Advocate for Applicant
Mr. S. B. Narwade, APP for Respondent – State
Mr. S. V. Salunke, Advocate for Respondent No.2 (Appointed)

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 16 JANUARY, 2025

PRONOUNCED ON : 20 JANUARY, 2025

ORDER :

1. This is an application for regular bail on account of arrest of applicant in Crime No. 368 of 2024 registered at Nanded Rural Police Station, Dist. Nanded for offence punishable under sections 376, 376(2)(n), 506 of Indian Penal Code (IPC) and sections 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012, (POCSO Act) read with section 3(1)(w)(i)(ii) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (SC & ST Act).

2. Claiming false implication, learned counsel for applicant pointed out that, applicant is arrested on 21.05.2024 on report lodged by victim on 10.05.2024. That, victim is said to be 17 years and 6 months old. That, said victim complained of chest pain and was taken to hospital and it is alleged that, she was found to be pregnant and thereafter, it is alleged that victim informed that two years back, when she had been to attend a marriage, she got acquainted with accused no.2, he used to follow her and maintained forceful sexual relations with her. It is further pointed out that, in supplementary statement given after 10 days, victim claims that, present applicant visited her house in January 2024 and subsequently thereafter on several occasions maintained forceful sexual relations with her after issuing threats. He pointed out that, last intercourse was reported to be on 14.03.2024. Learned counsel pointed out that, all such previous incidences are reported by victim in her supplementary statement i.e. while undergoing treatment. Thus, according to learned counsel, there is false and afterthought implication. He pointed out that, only when pregnancy was revealed, applicant is named. That, she had relations with accused no.2. Learned counsel pointed out that such accused is already beneficiary of bail by this court vide order dated 25.10.2024. For above reasons, learned counsel submits that, now

applicant is behind bars for more than 7 months. Nothing is to be recovered or discovered from him and hence he seeks grant of regular bail.

3. While opposing the above application, both, learned APP as well as learned counsel for victim pointed out that victim is a minor. That, serious offence has been committed on her by issuing threats and blackmailing her. That, statement of victim is recorded even under section 164 Cr.P.C. Consequently, for committing serious offence on a minor, they both strongly opposed the relief of regular bail.

4. Heard. Perused the papers. FIR dated 11.05.2024 seems to be at the instance of victim, who gave her age as 17 years. Substance of her statement is that, on 09.05.2024, when on account of complaint of chest pain, her mother took her to Government Hospital and there her Sonography revealed that she was pregnant. According to her, such pregnancy was due to Amol, R/o. Karla, Tq. Biloli and she reported that, two years back, when she had been to Karla, Tq. Biloli to attend marriage of her cousin and had stayed for 4 to 5 moths at her maternal aunt's place, said Amol followed her and teased her. She claims that, in January 2023 (but she is unable to give exact date), when she was alone

and her mother and brother were out of the house, around 12:00 noon, he had forceful sexual relations with her. When she told him that she would inform about it to her family members, he threatened to defame her and thereafter he repeatedly came to her house and used to have sex with her and last sexual intercourse by him was of 04.03.2024 and hence on the basis of report, she claims action against him. It seems that on her above statement dated 10.05.2024, crime bearing no. 368 of 2024 is registered by police, but, on 11.05.2024.

5. Papers placed on record further show, to which attention has been invited, that supplementary statement of victim was recorded on 20.05.2024 i.e. after 10 days of first report, in which she is reported that Amol had sexual relations with her up to December 2023 and thereafter there was quarrel between them. She further reported that, friend of her brother, namely Prakash Pande (i.e. present applicant) used to come home and he had learnt about her previous relations and he also expressed his love towards her, but she turned it down and thereafter present applicant allegedly threatened to disclose about her previous relations with Amol to her brother and mother and in spite of her request, to not to do so, he informed Amol about love relation of victim with another boy as a result of which Amol discontinued his

relations. She further reported that present applicant had declared he is going to beat Amol and when she requested him not to do so, applicant said that if she maintains physical relations with him, he would not beat Amol and therefore since January 2024 till April 2024, present applicant had sexual relations with her and as such the pregnancy is from him.

6. Thus, what is emerging from above discussion is that victim is changing versions only on detection of her pregnancy. Initially, she implicated Amol for having forceful sexual relations, but after 10 days, she gives supplementary statement implicating present applicant for having sex with her under threat and impregnating her.

Taking the same into consideration, and as applicant is reported to be behind bars since May 2024, charge-sheet having been filed and further there being nothing to suggest about immediate prospects of matter going for trial, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:-

ORDER

- (i) Application is allowed.
- (ii) Applicant Prakash S/o. Kashinath Pande be released on bail in connection with Crime No.368 of 2024 registered with

Nanded Rural Police Station, Dist. Nanded on executing P.B. of Rs.15,000/- with one surety in the like amount.

(iii) Applicant shall not tamper prosecution evidence.

(iv) Applicant shall not enter in the vicinity of Shahunagar, Meera Nagar, Nanded till conclusion of the trial.

(v) Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)