



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

BAIL APPLICATION NO. 2260 OF 2024

. Bhaiyasaheb Shankar Ingle
Age: 18 years, Occu.: Education,
R/o. Goutam Nagar, Gangakhed,
Tq.Gangakhed, Dist.Parbhani.Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Police Station, Gangakhed,
District Parbhani.
2. XYZ ..Respondents

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Advocate for Applicant : Mr. Shrikant G. Kawade
APP for Respondent no.1 : Mr.S.B.Narwade
Advocate for Respondent no.2 : Mr.Anand Datta Gawale

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 05 FEBRUARY, 2025
PRONOUNCED ON : 07 FEBRUARY, 2025**

ORDER :

1. Applicant seeks enlargement on bail on account of his arrest in crime no.0565 of 2024 registered at Gangakhed Police Station, Dist.Parbhani for the offence under Sections 61(1), 64(2)(i), 65(1), 96, 137(2), 3(5) of the Bharatiya Nyaya Sanhita and under Sections 4, 8, 12, 17 of the Protection of Children from Sexual Offences Act (POCSO Act).

2. Learned counsel pointed out that present applicant is arrested on 05-09-2024. That, now investigation is over and even chargesheet is filed. He pointed out that there are allegations of commission of above offences but against main accused. That, present applicant is shown as co-accused and he was merely shown to be present in the Auto Rickshaw with the main accused, but his presence is not shown at the actual scene of occurrence where the victim was said to be exploited. That, nothing is to be recovered at his instance. That, he is behind bars for more than four months and for all above reasons, learned counsel seeks grant of bail.

3. Learned APP as well as learned counsel for the victim have strongly opposed application pointing out that victim is 13 years of age. That, applicant was in the very company of main accused when she was forcibly taken in Auto Rickshaw. That, he had kept watch on the scene of occurrence. Learned APP pointed out that there was attempt to commit gang rape but it was averted. That, charges being serious, both the learned APP and learned counsel for the victim opposed the application.

4. Heard. Perused the papers. Here FIR seems to be at the

instance of very victim, who gave statement to Police on 04-09-2024. Substance of the FIR is that she studies in 9th Standard. According to her, ten days back, while she was returning home from the school, one boy came in Auto Rickshaw and threw a chit towards her and there was a mobile number scribed on the chit, but she claims that she tore it and threw it. Again on 04-09-2024, she claims that while she was going to the tuition, same boy, who came in Auto Rickshaw intercepted her, questioning why she did not make phone call and when she allegedly asked him to go, she was followed and she claims that she was taken in Auto Rickshaw, who was already accompanied by another boy and said Auto Rickshaw was taken towards a deserted place. The boy, who flung chit on her, had also taken a mat in Auto Rickshaw and victim was taken in a closed house and thereafter, after laying down the mat, said boy removed her leggings and undergarments. She claims to have resisted. But while he was about to commit intercourse, Police came and apprehended and therefore, both the boys and the informant was brought to the Police Station and on above report, crime seems to have registered. She has stated that the boy, who took her in the Auto Rickshaw gave his name as Anil Bapurao Jadhav, whereas the boy, who was sitting in the Auto Rickshaw gave his name as Bhaiyasaheb Shankar Ingle i.e.

present applicant. Therefore, as pointed out there are allegations that the minor being taken to in Auto Rickshaw by two persons but informant statement itself shows that said boy, who initially threw a chit on her and he made her sit in Auto Rickshaw is Anil Bapurao Jadhav. Present applicant, who is said to be Bhaiyasaheb Shankar Ingle appears to be sitting in the Auto Rickshaw and though the statement of victim shows that he to be travelling alongwith main accused in Auto Rickshaw, but only upto the house. It appears that only main accused got down from the Auto Rickshaw and took the girl to the closed house.

Submissions by learned APP as well as learned counsel for the victim that there was plan to commit rape has not supportive material or foundation.

For above role, applicant is already behind bars since September, 2024. Taking such role of the applicant into consideration and when nothing further is shown to be recovered or discovered at his instance, his further custody seems to be unwarranted. Hence, the following order :

ORDER

- (i) Application is allowed.

(ii) Applicant Bhaiyasaheb S/o. Shankar Ingle be released on bail in connection with Crime no.0565 of 2024 registered with Gangakhed Police Station, Parbhani on executing Personal Bond of Rs.15,000/- with one surety in the like amount.

(iii) Applicant shall not tamper prosecution evidence.

(iv) Applicant shall not enter into vicinity of Jaikwadi Vasahat, Gangakhed as well as vicinity of Nalad, Tq.Gangakhed, Dist.Parbhani till conclusion of trial.

(ABHAY S. WAGHWASE)
JUDGE