



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2382 OF 2024

Sandeep S/o. Raosaheb Borade,
Age : 29 years, Occu. : Labour,
R/o. Wadgaon Rampuri,
Tq. Gangapur, Dist. Aurangabad.

... Applicant

Versus

1. The State of Maharashtra,
At the instance of MIDC Waluj
Police Station, Dist. Aurangabad

2. XYZ

... Respondents

.....
Mr. Abhaysinh K. Bhosle, Advocate for Applicant.
Mr. N. D. Batule, APP for Respondent – State.
Mr. S. D. Nagode, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 APRIL 2025

PRONOUNCED ON : 08 APRIL 2025

ORDER :

1. Applicant seeks enlargement on regular bail on account of his arrest in Crime No.456 of 2024 registered at MIDC Waluj Police Station, Dist. Aurangabad for the offences punishable under sections 376, 376(2)(j)(i), 342, 452 of the Indian Penal Code and section 3(a), 4, 5(k), 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for applicant submitted that, applicant is

a milkman. That, he is falsely implicated because he visits house for distributing milk and his mobile number is with victim. That, victim is said to be mentally retarded. That, applicant has no concern with alleged ravishment. Learned counsel submitted that, informant herself has tendered affidavit. That, report is lodged on misunderstanding. That, informant has no objection for grant of bail. That, applicant is behind bars since May 2024. That, now charge sheet is filed and no recovery or discovery is to be made and hence he seeks enlargement on bail.

3. Learned APP opposed on the ground that victim is 16 years of age. That, report lodged by mother. That, there is medical evidence. That, statement under sections 161 and 164 are consistent and offence being serious and victim being a minor, learned APP opposes both affidavit by informant as well as prayers for bail.

4. Learned counsel for informant made a statement across the bar that informant has no objection for grant of bail as out of misunderstanding report has been lodged and affidavit to that extent has been placed on record.

5. Perused the report dated 09.05.2024. Mother of victim has reported that, she works in a company and resides with her son

and daughter, who is 16 years of age. It is reported that, she and her son go out for work in a company. Her daughter since birth was unable to walk and talk properly. She being treated by Dr. Kotalwar and from 12th years there is slight improvement, but she is not yet physically fit and is unable to speak and understand properly. She claims that, on 08.05.2024 when she telephoned her neighbour to ask her daughter to fill the tap water, her neighbour told her to come home immediately. Therefore, when she came home, another lady namely Pathan Bhabhi told her that door of the house is locked from inside and nobody is responding. After half an hour door was opened, one man came out and left in hurry. Informant claims that she questioned her daughter about the said person, but she accordingly told that he was a milkman, who came in the house, pressed her mouth and slept over her. On further inquiry, her daughter told that the said man had written a number on the notebook and therefore informant approached landlord and it was revealed that mobile number was of present applicant. Informant claims that, she noticed clothes of her daughter were blood stained and therefore with above allegations report has been lodged.

6. Along with charge-sheet there are treatment papers. Medical papers show that history is reported by informant - mother regarding 29 years old man entering their house and committing

forceful sexual assault on her daughter. On going through the charge-sheet, there seems to be statement of the victim, but she refers only one person, who was said to be milkman. Unfortunately, because of physical and mental disability of the victim probably investigating machinery has not conducted T.I. parade. However, as informant has claimed that neighbour saw one person coming out of the house and going in hurry, identification parade ought to have been got done or at least no efforts seem to have been taken at this direction.

7. As investigation is over and in view of above facts and circumstances, when there are no immediate prospects of matter going for trial and applicant is behind bars since almost a year, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

I. The application is allowed.

II. Applicant Sandeep S/o. Raosaheb Borade be released on bail in connection with Crime No.456 of 2024 registered at MIDC Waluj Police Station, Dist. Aurangabad, on executing Personal Bond of Rs.15,000/- with one surety in the like amount, on the following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter the vicinity where the informant and her family members reside till conclusion of trial.

[c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[d] The applicant shall attend the concerned police station twice in every week i.e. on every Monday and Thursday and maintain personal diary of his attendance till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)