



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 181 OF 2025

Ashok S/o. Jivraj Gaikwad,
Age : 43 years, Occu. : Business
(Vegetable seller),
R/o. Gaikwad Wasti, Hanuman Takli,
Tq. Pathardi, Dist. Ahmednagar.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through its Investigation Officer,
Tofkhana Police Station, Ahmednagar,
Tq & Dist. Ahmednagar.

2. X.Y.Z.

... Respondents.

.....
Mr. N. B. Narwade, Advocate for Applicant.
Mr. V. M. Jaware, APP for Respondent – State.
Ms. Monica Bagwe, Advocate for Respondent No.2 (Appointed).
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 05 MAY 2025

PRONOUNCED ON : 07 MAY 2025

ORDER :

1. Present bail application is in consequence to arrest of applicant in Crime No.1053 of 2024 registered at Tofkhana Police Station, Dist. Ahmednagar for offence punishable under sections 75, 351(2) and 351(3) of Bharatiya Nyaya Sanhita and under sections 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. It is submitted that applicant is arrested in above crime on 12.10.2024 and he is behind bars since almost seven months. That, applicant is father of alleged victim girl. That, due to marital discord between husband and wife, there is false implication. That, there are allegations of moving hand over head and body. That, there was no ill intention in doing so. Considering the nature of allegations, no recovery or discovery is to be made. That, investigation is over and charge sheet is filed in December of 2024. That, there are no immediate prospects of matter going for trial and hence as applicant is ready to abide all conditions deemed fit by this court, he urges for grant of bail.

3. Learned APP as well as learned counsel appointed for informant, have both opposed on the ground that in the influence of liquor, applicant used to repeatedly try to come in close proximity to his own daughter. He moved his hand over her person. That, victim herself felt it to be inappropriately. That, she reported it to her mother. Learned counsel for informant would question submissions of false implication by stating that no mother at the cost of dignity of her daughter and self respect of herself would level any false allegations. Learned APP also expresses apprehension of misuse of liberty. For all above reasons, relief of bail is opposed.

4. Heard. Perused the report dated 28.09.2024. The girl, who is 14 years of age, has reported that, she studied in 8th standard. That, her father does not reside with them, but he visits the house under influence of liquor, and regularly picked up quarrel. He reported that, in last month, when no one in the house, her father approached her, moved his hand over her hair by coming into close contact, due to which she felt her modesty being outraged. She reported to her maternal aunt, but she suggested to overlook as he is her father and that he might be under influence of liquor. She reported that again on 27.09.2024 at 8:30 p.m. he again came under influence of liquor when she was alone and he again moved his hand over her hair by coming in close proximity and she had the same feeling of shyness. When her mother returned, she reported her mother. He also urinated in her presence. Such occurrence was reported, resulting into registration of crime.

5. Applicant is behind bars since almost seven months. Allegations against applicant father are that, he resided separately, but visited the house under influence of liquor and he moved his hand over her head and her person while under influence of liquor. Now investigation is said to be complete. Going by the allegations, no recovery or discovery is shown to be made. Charge sheet being filed

recently, there do not seem to be prospects of matter going for trial. Apprehension of misuse of liberty expressed by learned APP can be taken care of by imposing stringent conditions. Hence, the following order is passed :-

ORDER

I. The application is allowed.

II. Applicant Ashok S/o. Jivraj Gaikwad be released on bail in connection with Crime No.1053 of 2024 registered with Tofkhana Police Station, Dist. Ahmednagar, on executing Personal Bond of Rs.15,000/- (Rupees Fifteen Thousands only) 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 attend the concerned police station once in every week i.e. on every Monday between 10:00 a.m. to 02:00 p.m. till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

III. 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.)