



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 1123 OF 2024

Mangesh @ Aditya Shankar Wathore

.vs.

The State of Maharashtra, through PSO PS Vasant Nagar, Pusad, Distt. Yavatmal
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr A. M. Jaltare, Advocate for the applicant

Mr A. G. Mate, APP for the non-applicant No.1/State

Mr Sarthak Chourasia, Adv. h/f. Mr S. S. Karanjkar, Advocate for non-applicant No.2

CORAM : G.A. SANAP J.

DATE : JANUARY 31, 2025

The applicant has made this application for bail
in Crime No.288 of 2023 registered with Vasant Nagar
police station, District Yavatmal.

2. Learned Advocate for the accused submits that
charge-sheet was filed on 18.08.2023. Till date the
charge has not been framed. The learned Advocate
further submits that the accused has been falsely
implicated in this case. The incident, as narrated, in the
report did not occur. In order to buttress his submissions,
the learned Advocate took me through the medical
examination report of the victim. The learned Advocate
pointed out that the medical officer has opined that there
was no injury to the genitals of the victim. The learned

Advocate submitted that considering the medical report further incarceration of the accused is not necessary. Learned Advocate submits that if this Court is inclined to grant the bail, the accused shall not enter Pusad town till completion of the trial except for attending the Court.

3. Learned APP submits that the opinion of the medical officer is provisional opinion. The final opinion is awaited. It is subject to analysis of biological samples. Learned APP further submits that the victim girl on the date of the first incident was 14 years of age. She was subjected to repetitive penetrative sexual assault. The victim girl is appearing for 10th standard examination and release of the accused on bail would severely affect mental condition and will ultimately damage her future.

4. Learned Advocate for the non-applicant No.2 has reiterated the submissions advanced by the learned APP.

5. I have gone through the record and proceedings. It needs to be stated that at this stage, it is not possible to record a finding as to the merits of the matter. If such a finding is recorded it may affect either the prosecution or the accused. While deciding the bail application, the Court has to take the bird's eye view of the material compiled in the charge-sheet. In the report, lodged by the

victim, she has narrated the history of the penetrative assault on her by the accused. The victim was referred for medical examination by the police. On examination, the doctor did not notice any injury to her genitals. It is the case of the non-applicant No.2/victim that she was subjected to repetitive penetrative sexual assault. The injury of the hymen is absent. The victim, on the date of the first incident, was 14 years of age. In this background, the absence of injury for *prima facie* analysis of this submission would assume significance. I am conscious of the fact that in case of offence of rape the absence of injury may not be a sole factor against the case of the prosecution.

6. The applicant was a teacher of the victim girl. He was teaching English subject. The victim has narrated the account of the incident. In my view, it is not necessary to go into other factual details. It would suffice to state that on the basis of the available material the case for release of the accused on bail has been made out.

7. The charge-sheet was filed on 18.08.2023. Till date the charge has not been framed. In the facts and circumstances, in my view, further incarceration of the accused is neither necessary nor warranted. The apprehension *put forth* by the learned APP can be taken

care of by imposing appropriate condition. In the facts and circumstances, I am inclined to grant bail to the accused. Hence, the following order:

- i) The Criminal application is allowed.
- ii) Applicant -Mangesh @ Aditya Shankar Wathore be released on bail in Crime No.288 of 2023, registered with Police Station Vasant Nagar, Yavatmal for the offence punishable under Sections 376(2)(f), 376(2)(i), 376(2)(n), 376(3) of the Indian Penal Code read with Sections 4, 6 and 10 of the Protection of Children From Sexual Offences Act, 2012 on his furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount.
- iii] The applicant shall not in any way tamper with the prosecution evidence.
- iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall not enter the Pusad Municipal Council jurisdiction till the completion of the trial except for the purpose of attending the trial on the given date and that too by reporting to the concerned police station which is nearer to the District and Sessions Court, Pusad.

vi] The applicant shall co-operate the investigating officer.

8. The Criminal Application stands **disposed of** accordingly. Pending application, if any, also stands disposed of.

(G. A. SANAP, J)

Namrata