

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 3481 OF 2015.

JAVED S/O IBRAHIM SHAIKH
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. V.M. Mane, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 23rd July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.14/2015 registered with Police Station, Wadhwana, Taluka – Udgir, District – Latur for the offences punishable under Section/s. 363, 366(A) and 376-2(N) of the the Indian Penal Code and under Section 3(1)(w), I, II-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 7(1)(d) of the Protection of Civil Rights Act, 1955 and under Section/s. 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

[2] Heard Mr. Mane, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State.

[3] According to the learned counsel for the Applicant, since the charge sheet is already filed, further custodial presence of the Applicant is not necessary. His another limb of argument is that, the prosecutrix was aware that present Applicant is married and having four sons, inspite of that, she allowed the present Applicant to have sexual intercourse with her, therefore, he submits that, present applicant can be released on bail. His further limb of argument is that, the prosecutrix left the company of lawful guardianship of her parents and on her own accord she accompanied the present Applicant.

[4] Submissions of the learned counsel for the Applicant are highly misplaced. From the charge sheet it is clear that on the date of occurrence the prosecutrix was below the age of her consent. In that view of the matter, the submissions of the learned counsel for the Applicant that on her own accord she left the lawful guardianship of her parents, cannot be accepted.

[5] It is crystal clear that, it is the Applicant who enticed her on the pretext of marriage and, thereby, forced the prosecutrix to leave the lawful custody of her parents.

Further from the statement of the prosecutrix recorded during the course of investigation clearly shows that, against her will, present Applicant has committed the sexual intercourse with her.

[6] In view of the fact that, prosecutrix is below the age of consent and that, the Applicant was aware that he is already married person having four sons, the intention on the part of the Applicant is

writ large to exploit the minor girl. In that view of the matter, no case is made out. Hence, Criminal Application is dismissed.

(V.M. DESHPANDE, J.)