

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

CRIMINAL APPLICATION NO.4577 OF 2015

Vishwanath s/o Ambadas Yerla,
Age 22 years, Occu. Labour
R/o Raviwarpeth, Galli No.256/2,
Solapur, Taluka and Dist. Solapur

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr S.J. Rahate, Advocate for applicant
Mr N.T. Bhagat, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 13th October 2015

PER COURT

Heard.

2. The applicant herein is seeking regular bail in Crime No.18/2014 registered on 6th February 2014. The applicant was arrested on 23rd December 2014 in the said crime, punishable under Sections 363, 366-A, 376 read with sec.34 of the Indian Penal Code with Sections 3, 4 and 5 of Protection of Children from Sexual Offences Act.

3. The prosecution story in brief is that the victim Aishwarya was abducted and was subjected to physical relationship by the present applicant, resulting into registration of crime at the behest of maternal uncle of victim Aishwarya.

4. The statement of the victim was recorded on 24th December 2014 in which she has in categorical terms admitted that she was

having love affair with the applicant and after she went away with the applicant on 6th February 2014, she stayed with her paternal aunt's daughter namely Uma for a period from 6th Feb 2014 till the date of arrest of the applicant i.e. 23rd December 2014.

5. From the above referred factual matrix, it appears that the offence in question came to be registered pursuant to the complaint lodged by the maternal uncle of the victim Aishwarya.

6. It appears that the victim was in love relationship with the applicant and stayed together with him at her relative for more than six months which fact is not dispute.

7. The application for grant of bail is opposed by learned A.P.P. on the ground that the girl at the relevant time was minor and her consent was hardly of any assistance to the applicant. According to prosecution, looking to the seriousness of the offence, it will be appropriate to reject the application.

8. Having bestowed my considerations on the submissions made by the parties, it is undisputed position that victim Aishwarya was 17 years of age and was in love with the applicant and stayed for a substantial period along with the applicant at her relative's house, which statement is given by her to the Police. She has admitted that she voluntarily entered in physical relationship with the applicant.

9. Having regard to the fact that there was consent by the victim Aishwarya and that the applicant is behind the bars since more than ten months, it will be appropriate in my opinion to grant protection to the applicant. Hence, I proceed to pass the following order.

(I) The applicant - Vishwanath Ambadas Yerla be released in connection with Crime No.18/2014 for the offences punishable under Sections 363, 366-A, 376 read with sec.34 of the Indian Penal Code with Sections 3, 4 and 5 of Protection of Children from Sexual Offences Act, upon executing P.R. Bond of Rs.25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

10. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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