

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

CRIMINAL APPLICATION NO. 2919 OF 2016

Uday s/o. Dyaneshwar Ghaiwat .. Applicant
Age. 31 years, Occ. Tailor,
R/o. Chigatgaon, Tal. Vaijapur,
Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.A.B. Kale, Advocate for the applicant.
Mr.S.P. Sonpawale, APP for respondent/State.
Mr.K.F. Shingare, Advocate for respondent No.2.

**CORAM : A.M. BADAR, J.
DATED : 24.10.2016**

P.C. :-

1. The applicant/accused in Crime No.I-123 of 2015, registered with Shivoor Police Station, Dist. Aurangabad, for offences punishable under section 363, 376 of the Indian Penal Code and under sections 3 (a), 4, 5(c) (t), 6 & 8 of the Protection of Children from Sexual Offences Act (POCSO Act) 2012, by this application is seeking his release on bail after filing of the charge-sheet.

2. Heard learned Counsel for the applicant. I have also heard learned A.P.P. and learned Counsel appearing for the informant. They both argued that the crime in

question is serious and if release on bail, the applicant would tamper prosecution evidence. It is also argued that the medical evidence supports the prosecution case.

3. Perused the charge-sheet. Considered the rival submissions. According to the prosecution case, the applicant/accused had kidnapped minor daughter of the informant - Narayan, in the night intervening 22.09.2015 and 23.09.2015. According to the prosecution case, the applicant then committed rape on her, when the couple stayed at several places, after eloping. It is also averred that even prior to eloping, the applicant had committed rape on the minor female daughter of the informant.

4. It is seen from the charge-sheet that on 18.11.2015, the minor female daughter of the informant was traced out and her statement came to be recorded on 19.11.2015. It is seen that the minor female victim of the crime in question was in love with present applicant, who is distinctly related to her. The statement of the minor female victim further reveals that she insisted the applicant to marry her, by eloping. Her statement reflects that she had threatened the applicant that if he does not come to take her with him, she will die. Then this couple eloped and resided at various places, namely,

Thane, Jalgaon, Shirdi, Aurangabad, Apegaon etc.

5. Perusal of the charge-sheet, as such, shows that the applicant and the minor female victim were in love with each other and they chose to live together without consent of their parents. No violence is attributed to the present applicant, nor he is reported to have any criminal antecedents. There is nothing tangible on record to show that, if release on bail, the applicant would tamper the prosecution evidence. As such, the applicant is entitled to be enlarged on bail, in view of judgment of this Court dated 03.08.2015 in Sunil Madhav Patil Vs. State of Maharashtra, decided at Principal Seat. Therefore, the order :-

O R D E R

i) The application is allowed.

ii) The Applicant/accused - Uday s/o. Dnyaneshwar Ghaiwat in Crime No. I-123 of 2015, registered with Shivoor Police Station, Dist. Aurangabad, for the offence punishable u/s 363, 676 of the Indian Penal Code and under sections 3(a), 4, 5(c)(t), 6 & 8 of the Protection of Children from Sexual Offences Act (POCSO Act) 2012, be released on bail on executing P.R.Bond of Rs. 30,000/- [Rupees Thirty Thousand] and on furnishing surety in the like amount.

iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

iv) The applicant shall not tamper the evidence of the prosecution.

v) The applicant to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M. BADAR, J.]