

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

**Criminal Application No. 4096 of 2016**

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| District : Nandurbar |
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Machchindra s/o. Jayram Chougule,  
Age : 27 years,  
Occupation : Labour,  
R/o. Saroj Nagar, Nandurbar,  
Dist. Nandurbar. .. Applicant.

**versus**

The State of Maharashtra. .. Respondent.

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*Mr. C.R. Deshpande, Advocate, for the applicant.*

*Mr. A.S. Shinde, Addl. Public Prosecutor, for the respondent.*

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

**DATE : 24TH OCTOBER 2016**

**ORAL ORDER:**

At the request of the learned Counsel for the applicant, leave granted to correct the prayer clause. Amendment be effected forthwith.

2. The applicant / accused in Crime No. 113/2015 for offences punishable under Sections 363, 366A, 376 of the Indian Penal Code and under Sections

3 and 4 of the Protection Of Children From Sexual Offences Act, 2012, registered with Upnagar Police Station, Nandurbar, by this application, is seeking his release on bail after filing of the charge-sheet.

3. Heard the learned Counsel appearing for the applicant / accused. He argued that the alleged victim of the crime in question was on verge of attaining majority and she had attained the age of understanding. The learned Counsel further argued that the applicant is a married persons having children to maintain and therefore as investigation of the crime in question is over, he be released on bail.

4. The learned Addl. Public Prosecutor opposed the application by contending that there is possibility of tampering prosecution evidence as well as repetition of similar offences in future.

5. I have carefully considered the rival submissions and also perused the charge-sheet. According to the prosecution case, the applicant is a married person having children. The alleged victim of the crime in question is his cousin. She is stated to be about 15 years and 11 months old. Informant - mother of the victim lodged the FIR on 17.11.2015 alleging that her minor daughter went missing from the house in the night intervening

04.11.2015 and 05.11.2015. The FIR discloses that the alleged victim was 15 years and 11 months old. The informant suspected the applicant behind kidnapping her daughter.

6. Subsequently during the course of investigation, the alleged victim of the crime in question was traced out and her statement came to be recorded on 04.04.2016. Her statement reflects that said minor female was very well aware about the fact that the present applicant, who is her cousin, is a married person having children. Her statement reveals that she still decided to elope with the applicant and accordingly they both left their residence on 04.11.2015 and stayed at Aurangabad by hiring a room. The victim disclosed in her statement that at Aurangabad, they lived as husband and wife from 04.11.2015 to 01.04.2016. In her statement recorded under Section 164 of the Cr.P.C., the victim stated that she once had physical relations with the present applicant during this period.

7. The investigation of the crime in question is over. The minor female victim in her statement has disclosed that she was having love towards the present applicant and therefore they both decided to elope. The minor female victim was knowing the family background of the present applicant. The applicant has not indulged in coercion or violence

while committing the alleged crime.

8. In this view of the matter, further pre-trial detention of the applicant is not warranted and the learned Counsel for the applicant stated that the applicant would not enter within territorial limits of Nandurbar town till disposal of the trial. This will take care of apprehension of the learned Addl. Public Prosecutor that the applicant may tamper prosecution evidence.

9. Hence, I pass the following order.

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 25,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directives :-

(i) The applicant shall not enter into territorial jurisdiction of Nandurbar town, till disposal of the trial, except for attending dates fixed for hearing in the trial against him.

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(iii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial against him.

(iv) The applicant shall not repeat commission of similar type of offences in future.

(d) The Application stands disposed of in the above terms.

( A.M. BADAR )  
JUDGE

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