

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

CRIMINAL APPLICATION NO.5562 OF 2015

Umesh s/o Gangadhar Khade,
Age 19 years, Occu. Student,
R/o Khadewadi, Taluka Majalgaon,
District Beed

..Applicant

Versus

The State of Maharashtra,
through Investigation Officer,
Peth Beed Police Station,
Taluka Majalgaon, Dist. Beed

..Respondent

Mr R.V. Gore, Advocate for applicant
Mr S.J.Salgare, Advocate for respondent
Mr K.B. Jadhavar, Advocate assisting the A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 7th January 2016

PER COURT

Heard.

2. The applicant is seeking pre-arrest bail in Crime No.72/2015 registered at Peth Beed Police Station, District Beed, for the offence punishable under Sections 363, 366-A, 376 (2) (I) (I) (N) of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant would urge that the age of the applicant is nineteen years and he is a student of Industrial Training Institute. According to him, the allegations in the F.I.R. and the investigation papers speak of consent of the victim. He would then urge that the relation between the applicant and victim was

known to the parents of victim. In addition to above, he would urge that the victim herself has given a statement that she has voluntarily went with the applicant. According to him, the applicant is entitled for release.

4. The application is opposed by learned A.P.P. who is assisted by learned Counsel for the complainant. According to learned A.P.P., the consent of a minor cannot be accepted as a free consent. He would then urge that the statement recorded under Section 164 of Cr.P.C. narrates and points guilt towards the applicant. According to him, there is sufficient evidence on record which speaks of involvement of the applicant in the crime in question.

5. I have perused the entire case papers.

6. It is brought to my notice by learned Counsel for the complainant that the charge is already framed against the applicant. Apart from above, upon perusal of evidence it appears that the victim was in love with the applicant and has voluntarily left with him.

7. Previous history speaks of knowledge of relationship of victim and applicant to the parents of victim.

8. Having considered the rival submissions made by the parties, it is noted that there is no criminal history on the part of the applicant and as the investigation is already complete and charge-sheet is filed, it will be appropriate, in my opinion to order release of the applicant. Hence, I proceed to pass the following order.

(I) The applicant be released on bail in Crime No.72/2015 registered at Peth Beed Police Station, District Beed, for the offence punishable under Sections 363, 366-A, 376 (2) (I) (I) (N) of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act, upon furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount.

(II) The applicant shall stay away from the jurisdiction of Beed town till conclusion of trial, however, shall entered the city for the purpose of attending the Court proceedings.

9. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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