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

CRIMINAL APPLICATION NO.5934 OF 2016

Sharad s/o Anilrao Lokhande,
Age : 24 years, Occ. Pvt. Service
R/o Maliawada, Taluka and
District Aurangabad

..APPLICANT

VERSUS

The State of Maharashtra
(Through M.I.D.C. Waluj
Police Station, District
Aurangabad)

..RESPONDENT

Mr N.S. Ghanekar, Advocate for applicant;
Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 15th December, 2016

ORAL ORDER

The applicant, who has been arrested on 10th June, 2016, in connection with C.R. No.77 of 2016, registered at M.I.D.C. Waluj Police Station, Aurangabad, for offences punishable under Sections 363, 366-A, 376 (2) (I) of the Indian Penal Code and Sections 3, 4 and 8 of Protection of Children from Sexual Offences Act, seeks his release on bail.

2. As per the first information report lodged by one Shantabai, her daughter named Gangasagar @ Kiran was reported to be missing on 10th February, 2016. On the basis of this report, the crime came to be registered initially under Section 363 of the Indian Penal Code. Subsequently, after the arrest of the present applicant, offence under

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Section 376 (2) (I) of the Indian Penal Code and Sections 3, 4 and 8 of Protection of Children from Sexual Offences Act.

3. It is submitted by the learned Counsel for the applicant that the applicant was working as a labourer with one contractor named Sanjay Rathod. The prosecutrix, by posing as Kiran Khandare, obtained employment by stating that she was above the age of 18 years. According to the applicant, he thereafter married said prosecutrix under the belief that she was major and was, in fact, Kiran Khandare. Only after his arrest, it was revealed that the prosecutrix had impersonated said Kiran Khandare, resulting into aforesaid offence. It is submitted that in fact, applicant had contracted marriage with the prosecutrix on 11th February, 2016 and they were residing together till his arrest. She did not make any complaint whatsoever of forceful confinement. It is, therefore, submitted that in these facts, as investigation is now complete and charge-sheet has been filed, further detention of the applicant is not warranted.

4. The application is opposed by the learned Addl. Public Prosecutor by relying upon statements forming part of the charge-sheet. He has referred to the statement of the prosecutrix dated 15th June, 2016 in that regard. It is submitted that as the prosecutrix was below the age of 18 years, the offence had been made out and applicant does not deserve to be released.

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5. I have perused the documents filed along with the charge-sheet. The birth certificate of one Kiran Khandare, said to have been produced by the prosecutrix for seeking employment, indicates the date of birth as 27th December, 1997. The statement of Sanjay Rathod, the contractor, indicates that the prosecutrix was given employment after seeking said certificate. Similarly, Kiran Khandare has given his statement that his school leaving certificate was misused by the prosecutrix. The documents further reveal that after preparing all necessary documents, the applicant married the prosecutrix in the month of February, 2016 and they stayed together for almost four months. Statement of landlord Ganesh Bagade also indicates that the applicant and prosecutrix were residing peacefully during said period.

6. In the light of aforesaid material on record, I find that the applicant has made out a case for enlargement on bail. Moreover, after completion of investigation, charge-sheet has been filed on 20th August, 2016.

7. Hence, applicant, who has been arrested in connection with C.R. No.77 of 2016, registered at M.I.D.C. Waluj Police Station, Aurangabad, for offences punishable under Sections 363, 366-A, 376 (2) (I) of the Indian Penal Code and Sections 3, 4 and 8 of Protection of Children from Sexual Offences Act, is directed to be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

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(i) The applicant shall not take any steps to influence the prosecution witnesses.

(ii) He shall attend the concerned police station as and when directed by the Investigating Officer.

8. Observations made in this order are only for deciding the present bail application. Same is allowed and disposed of.

(A.S. CHANDURKAR, J.)

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