

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

BAIL APPLICATION NO.1321 OF 2020

Ashok Haribhau Mate

Applicant

Versus

The State of Maharashtra

Respondent

Mr. R.K.Temkar, advocate for the applicant.
Mr. R.V.Dasalkar, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 17th December, 2020.

PC :

1 The applicant - Ashok Haribhau Mate, is seeking bail in connection with Crime No.369 of 2020, registered with Shevgaon Police Station, Tq. Shevgaon, District Ahmednagar, for the offences punishable under Sections 376 (2) (I), 376 (2) (n), 34 of the Indian Penal Code; under Sections 4, 8, 12, 14, 16 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 66(E) and 67(B) of the Information Technology Act, 2000.

2 Heard both sides.

3 The learned Counsel for the applicant submits that the investigation is over and charge sheet has been submitted. The applicant is in jail, in connection with present crime, since

20th July, 2020. The learned Counsel for the applicant submits that there was love affair between the applicant and victim since 2018. Though the victim has made certain allegations in the First Information Report, however, she used to meet the applicant voluntarily. The learned Counsel submits that only after marriage of victim was fixed with one Rehan, the victim has refused to keep further relations with the applicant. However, it further appears from the allegations made in the complaint that marriage of the victim with the said Rehan was broken for the reason that the applicant allegedly sent one message to said Rehan along with photographs of the victim. The learned Counsel submits that after the said incident, the victim has disclosed everything to her parents and also lodged complaint against the applicant. The applicant is a young person of 22 years of age having no criminal history. The applicant is ready to abide by the conditions, that may be imposed by this Court while releasing the applicant on bail. The applicant may be released on bail.

4 The learned A.P.P. has strongly resisted the application on the ground that the victim was 15 years and 11 months of age at the time of the alleged crime. In view of the same, her consent, in any form, is immaterial. The learned A.P.P. submits that the informant/victim has alleged that each and every time, the applicant has threatened her for keeping relations with him and she succumbed to those threats since the applicant was having her photographs in his mobile. The learned A.P.P. submits that even though victim's marriage

was fixed with Rehan, however, it was broken because of the message sent by the applicant to said Rehan. The learned A.P.P. submits that *prima facie*, there is a strong case against the applicant. The applicant may not be released on bail.

5 On going through the allegations made in the complaint and on perusal of the charge sheet, though I find allegations against the applicant about commission of rape, however, it appears that there was love affair between the applicant and informant/victim. The informant/victim has also stated so in her complaint. There were consensual sexual relations between them since 2018. The victim/informant has never disclosed the incident of threats, if any, on the part of the applicant to her parents. On the other hand, she had joined company of the applicant and went with him at various places including hotel, garden, etc.. It further appears that only after marriage of the informant/victim was fixed with one Rehan, she had refused to keep relations with the applicant. It also appears that because of the message sent by the applicant to Rehan, marriage of the victim with one Rehan was broken. Thus, there is inordinate delay in lodging the complaint. Thus, considering nature of the allegations and since the applicant is a young person having no criminal history, I am inclined to release the applicant on bail with certain conditions.

6 Hence, the following order:

(i) Application is partly allowed.

(ii) The applicant – Ashok Haribhau Mate, in connection with Crime No.369 of 2020, registered with Shevgaon Police Station, Tq. Shevgaon, District Ahmednagar, for the offences punishable under Sections 376 (2) (I), 376 (2) (n), 34 of the Indian Penal Code; under Sections 4, 8, 12, 14, 16 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 66(E) and 67(B) of the Information Technology Act, 2000, be released on bail on his furnishing Personal Bond of Rs.20,000/- (Rs.Twenty Thousand) with one solvent surety of the like amount, on the following condition:

(a) The applicant shall not tamper with the prosecution evidence, in any manner.

(b) The applicant shall not make any attempt to meet or communicate the victim, in any manner, till conclusion of the trial.

7 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

adb