

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

**926 BAIL APPLICATION NO.654 OF 2021
WITH APPLN/1450/2021 IN BA/654/2021**

Vishal S/o Sambhaji Vairale
Age: 22 years, Occu.: Labor,
R/o. Kasapuri, Tq.Pathri,
Dist.Parbhani.

..Applicant

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station Majalgaon (Rural),
Tq.Majalgaon, Dist.Beed.

2. Namdeo Dnyanoba Wavhale (Wayal)
Age: 32, Occu.: Labour,
R/o. Walur, Tq.Selu,
Dist.Parbhani.
At present : R/o. Pawarwadi Shiwar,
Ta.Majalgaon, Dist.Beed.

..Respondents

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Advocate for Applicant : Shri M.B. Sandanshiv h/f.
Shri Subhash S. Nade
APP for Respondent No.1 : Shri S.P.Sonpawale
Advocate for Respondent No.2 : Shri J.R.Patil h/f.
Shri D.N.Gilche

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CORAM : M.G.SEWLIKAR, J.

DATE: 9th September, 2021

PER COURT:-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.0006 of 2021 registered with Majalgaon (Rural) Police Station, District Beed, for the offence

punishable under Sections 363, 366-A, 376(D)(A), 376(2)(n) of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act.

2. Prosecution's case in brief is that the victim is 13 years and some days old at the time of the incident. On 8th January, 2021 at 08:00 p.m., the victim went out of the hut on the pretext of urination but did not return. At that time, applicant was also missing. Therefore, the parents of the victim apprehended that the applicant must have kidnapped the victim.

3. On lodging the First Information Report (FIR), search of the applicant and the informant was undertaken. Both of them were traced. The victim earlier had given the statement that the applicant had kidnapped her on the pretext of performing marriage with her and had sexual intercourse with her. Therefore, offence under the aforesaid Sections came to be registered against him.

4. Heard Shri M.B. Sandanshiv holding for Shri Subhash S. Nade, learned counsel for the applicant, Shri S.P.Sonpawale, learned APP for respondent No.1-State and Shri J.R.Patil holding for Shri D.N.Gilche, learned counsel for respondent No.2.

5. Though the victim has stated that the applicant had sexual intercourse with her against her will, medical evidence does not support the case of the prosecution. It says that there was no history of sexual assault.

6. Shri Sandanshiv, learned counsel for the applicant states that the parties have arrived at amicable settlement. Learned counsel for the victim is also present. He also endorses the submission of the learned counsel for the applicant.

7. Having regard to the evidence collected by the prosecution, a case for bail is made out. In view of this, following order is passed.

ORDER

- i) Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs.Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0006 of 2021, registered with Majalgaon (Rural) Police Station, District Beed, under Sections 363, 366-A, 376(D)(A), 376(2)(n) of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act

- iii) Bail Application is disposed of.
- iv) Criminal Application No.1450 of 2021 is allowed.

(M.G.SEWLIKAR)
JUDGE

SPT