

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

952 BAIL APPLICATION NO.1227 OF 2021

**VIKAS VITTHALRAO SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Shri. B. N. Magar, Advocate for the applicant
Shri. P. G. Borade, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 28th OCTOBER, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure in connection with Crime No. 149 of 2021 registered with Hatta Police Station, District Hingoli for the offence punishable under Sections 363, 366(A), 376 read with Section 34 of the Indian Penal Code and under Sections 4, 12 of the POCSO Act.

2. It is the prosecution case that the victim is 17 years of age studying in 9th standard. On 18th June, 2021 the victim was not seen in the house. After taking search, since she was not found FIR was lodged. During the investigation

it was revealed that she had eloped with the applicant. Statement of the victim was recorded in which she stated that applicant and the victim had sexual intercourse. Therefore, offence under Sections 363, 366(A), 376 read with Section 34 of the Indian Penal Code and under Sections 4, 12 of the POCSO Act came to be registered.

3. Heard Shri. Magar, learned counsel for the applicant and Shri. Borade, learned APP for the respondent/State.

4. Charge-sheet is filed. Therefore, further detention of the applicant is not warranted.

5. On perusal of the charge-sheet it appears that statement of the victim came to be recorded under Section 164 of the Code of Criminal Procedure in which she did not say anything about the alleged sexual intercourse with the applicant. Medical evidence also does not corroborate the prosecution version. Medical report shows that hymen is

intact there was no injury on Labia Majora and Labia Minora. In this view of the matter, at this stage there is no evidence to show that the victim was subjected to sexual violence. In this view of the matter, I am inclined to release the applicant on bail. Applicant does not have criminal antecedents. It is his first offence. Hence the following order is passed.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 149 of 2021 under Sections 363, 366(A), 376 read with Section 34 of the Indian Penal Code and under Sections 4, 12 of the POCSO Act registered with Hatta Police Station, Dist. Hingoli.
3. Application is disposed of.
4. It is clarified that the observations made in the

above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp