

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

BAIL APPLICATION NO.550 OF 2022

Pradip Keshav Pawar ...Applicant

VERSUS

The State of Maharashtra and another ...Respondents

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Mr. Sable Bhagwan R, Advocate for the applicant.
Mr. V.S. Badakh, APP for the respondent-State.

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CORAM : S.G. MEHARE, J.

DATED : 20th JUNE, 2022.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. Learned counsel for the applicant has vehemently argued that the victim fled away with the applicant/accused on her own. The applicant never forced her to elope with him. She had the free consent to go with him away from the custody of her parents. The applicant has been languishing behind bars since 21.11.2021. The investigation is complete, and the charge sheet is also filed. The victim never complained against the applicant. The victim has a case of a love affair with the applicant and had apprehension from her parents. The victim was on the verge of attaining the age of majority and was well aware of the consequences of eloping. She never

opposed the applicant while going to the other place. They were living as husband and wife and were about to get married, but in the meantime, the police arrived and arrested the applicant. The applicant is labour and 21 years old boy from a poor family. He never had any intention to commit the offence, but only due to the fear of the victim's life he agrees to go with her. The same statement was given by the victim to the Mahila Dakhshata Samiti. There are no antecedents at the discredit of the applicant. The offence of Section 363 r/w 34 of the Indian Penal Code has been registered against the applicant. Then, Sections 4 and 6 of the Protection of Children From Sexual Offences (POCSO) Act, 2012, were added. The applicant is ready to abide by the conditions imposed upon him if enlarged on bail.

3. Learned APP has vehemently argued that the victim was a minor at the time of the alleged incident. Her statement categorically reveals that the applicant took her with him, and they falsely told the lodge owner and the room owner that they were husband and wife. Actually, there was no marriage between them. The medical examination report supports the prosecution case. There is a possibility of tampering with the prosecution witness, more particularly the victim, at the hands of the accused. The offence is serious; hence, the accused may not be released on bail.

4. The statement of the victim reveals that at the time of the

incident, she was of age 16 years, 9 months and 11 days. Her statement reveals that she herself had shown the willingness to go with him. When the applicant could not arrange for the money to elope, thereafter, both of them were in contact and on the date of the incident, she was in contact with the applicant on the phone. Reading her statement as a whole reveals that she has played an active role in eloping.

5. Be that as it may, the fact remains that she was a minor at the time of the incident, but this may not be the sole factor in considering the prayer for the bail. The overall knowledge of the consequences of the act and the act likely to be done by the victim are also equally important. The charge sheet is filed, and the investigation is over. The trial may take its own time; therefore, considering the overall circumstances of the case, it would be inappropriate to keep the applicant behind bars. Hence, the following order :

ORDER

- I) The application is allowed.
- II) The applicant, Pradip Keshav Pawar shall be released on bail in Crime No.231/2021 for the offence punishable under Section 376(2), (N), 363, 366 r/w 34 of Indian Penal Code and under Section 4 and 6 of the Protection of Children From Sexual Offences (POCSO) Act, 2012 registered with Wadwani Police Station, District Beed on executing PB. and S.B. of Rs.15,000 (Fifteen Thousand) with one

solvent surety in the like amount, on the condition that he shall not contact the victim or her parents or any witness in any way.

III) He shall not tamper with the prosecution witness.

IV) He shall not enter the village of the victim for one month from today.

V) Bail before the learned Sessions Court.

VI) Hamdast allowed.

(S.G. MEHARE, J.)