

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

BAIL APPLICATION NO.591 OF 2022

Ashok Vinayak Bikad

...Applicant

VERSUS

The State of Maharashtra and another

...Respondents

...

Mr. R.G. Hange, Advocate for the applicant.

Mr. V.S. Badakh, APP for the respondent-State.

Mr. S.E. Shekade, Advocate for respondent no.2.

...

CORAM : S.G. MEHARE, J.

DATED : 07th JULY, 2022.

PER COURT:-

1. Heard the learned counsel for the applicant, learned APP for the State and learned counsel for respondent no.2/first informant.
2. It has been alleged against the applicant that he was continuously following the deceased up to her school. The applicant was also harassing the deceased. She was complaining to her parents about the applicant. The parents of the deceased explained to the applicant not to follow the deceased. The applicant said to her parents that he wanted to marry the deceased, they may do what they wanted to do. The deceased again complained to her parents on 17.12.2021 about the applicant. Then the applicant again said to them that he wanted to marry her, and if they denied, he would lift her. Therefore, they were frightened and stopped sending the deceased to the school. On 21.12.2021, the deceased went to the open toilet in the morning at around 07.30 am;

however, she did not return. So the first informant went to the open toilet. The first informant got suspicious. Hence, he intimated to the police. The dead body of the deceased was found in the well. It has been alleged that the deceased committed suicide due to continuous harassment by the applicant.

3. The learned counsel for the applicant has vehemently argued that the prosecution has no evidence that the applicant had at any time following the deceased. The schoolmate and the headmaster of the school did not state the applicant was continuously following her. In a statement of one witness, it has come that the applicant and deceased had a love affair. The applicant intended to marry the deceased. Therefore, he has no reason to harass her. He has vehemently argued that the statement of the first informant under Section 161 of the Criminal Procedure Code is completely silent as regards the harassment by the applicant of the deceased at the hands of the applicant by following her on the way to her school. Only on the suspicion the allegations have been levelled against the applicant. The applicant has been behind the bar for the last seven months. He is a young boy of 19 years. The investigation is over, and the charge sheet is filed. He may be released on bail.

4. The learned APP has strongly opposed the application contending that the applicant had one-sided love with the deceased. The applicant has threatened the parents of the deceased that he wanted to marry the deceased, and if they resisted, he would take her with him. The deceased committed suicide due to consistent harassment. The parents

and brother of the deceased have consistently stated against the applicant. Therefore, the applicant is not entitled to bail.

5. The learned counsel for the first informant has vehemently argued that there was continuous harassment of the deceased. The parents of the deceased explained to the applicant, but he did not listen. He has threatened the parents of the deceased. Due to threats, the parents of the deceased stopped sending her to the examination. The FIR is immediately lodged. The applicant was residing alone. His parents were cutting sugarcane. In the absence of his parents, he was doing such an illegal act of harassing a small girl. The offence is serious. The deceased is a child below the age of 18 years. She has unnecessarily lost her life. Therefore, the application may be rejected.

6. It appears that the report was lodged on 22.12.2021 with the allegations as stated above. It also appears that the parents stopped sending the deceased to school from 17.12.2021, and after five days, the incident happened. No doubt the offence is serious. The Court has to see the *Prima facie* case. Learned counsel for the applicant pointed out that most of the time, the girls were going to school in groups. The school where the deceased was studying was 2 km away from her village. Her friends stated nothing about following the deceased by any boy. However, they learnt that some quarrels happened in her family. The applicant is also 19 years old boy. He has been behind bars for seven months. The investigation is over; therefore, this Court is of the view that there is no

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propriety in keeping him behind the bar. The application deserves to be allowed. Hence, the following order :

ORDER

- I) The application is allowed.
- II) The applicant, Ashok Vinayak Bikad, be released on bail on executing P.B. and S.B. of Rs.15,000/- (Fifteen Thousand) with one solvent surety in the like amount in Crime No.305/2021 registered with Rural Police Station Majalgaon, Taluka Majalgaon, District Beed for the offence punishable under Sections 354, 354-A, 354-D, 341, 305 of the Indian Penal Code and under Section 8 and 12 of the Protection of Children From Sexual Offences Act, 2012, on the conditions that he shall not tamper with the prosecution witness.
- III) The applicant shall not contact any of the witnesses till the conclusion of the trial.
- IV) The applicant shall not indulge in similar nature of crime and shall maintain peace.
- V) Bail before the Sessions/Special POCSO Court.

(S.G. MEHARE, J.)