

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

BAIL APPLICATION NO. 774 OF 2022

Bharat @ Kalya Appa Kale	... Applicant
Versus	
The State of Maharashtra and another	... Respondents

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Mr. V. P. Savant, Advocate for applicant
Mr. V. S. Badakh, APP for respondent No.1 - State
Mr. A. D. Hande, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.

DATED : 25th JULY, 2022

PER COURT :-

. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0210/2022, registered with Beed Rural Police Station, District Beed, for the offences punishable under Sections 363, 376, 376(2)(F), 376(2)(J), 376(2)(n) of the Indian Penal Code and under Sections 5(L), 5(N) and 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard.

Perused the First Information Report (FIR) and the related papers.

The applicant herein is the brother-in-law (husband of sister) of the victim. The FIR was lodged by the applicant's father-in-law. It is alleged therein that the applicant kidnapped the informant's 15 years old daughter on 13.08.2021. In the first para of the FIR, it has been alleged that the applicant herein has been facing prosecution for the similar offence against the same victim. It is informed that the applicant and his wife, both have been residing together. The record indicates that the applicant and his sister-in-law (victim) have eloped and stayed together for about three months in Mumbai. As such, there is reason to believe it to be the case of consensual relationship. The question is whether the victim is below 18 years of age. The record, however, indicates that the informant and the victim herself had appeared before the trial Court and stated on affidavit to have lodged the FIR with some misunderstanding. As such, the allegations in the FIR get diluted. In this peculiar facts and circumstances of the case, the application deserves to be allowed. Hence, following order:

ORDER

- (i) The Bail Application is allowed.

- (ii) The applicant be released on bail in connection with Crime No.0210/2022, registered with Beed Rural Police Station, District Beed, for the offences punishable under Sections 363, 376, 376(2)(F), 376(2)(J), 376(2)(n) of the Indian Penal Code and under Sections 5(L), 5(N) and 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

SMS