

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

BAIL APPLICATION NO.804 OF 2022

Shivaji s/o Ramesh Sarwade

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. M.P. Kale, Advocate for applicant
Mr. S.P. Sonpawale, A.P.P. for respondent No.1 – state
Mr. N.T. Tribhuwan, Advocate for respondent No.2.
.....

CORAM : R. G. AVACHAT, J.

DATE : 11th AUGUST, 2022.

PER COURT :

Heard. 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.0114/2022, registered at Palam Police station, District Parbhani for the offences punishable under Sections 363, 366, 376 of the Indian Penal Code, Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act and Sections 3(1)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The First Information Report (F.I.R.) has been lodged by father of the victim on 7/5/2022. What can be gathered from the F.I.R. is that, the applicant and a 15 year old daughter of the informant were emotionally involved. They eloped on the intervening night of 7th and 8th May 2022. Both of them stayed together for about 4 days at Pune. As per the statement of the victim, the applicant had sexual intercourse with her on the night of 8th May 2022.

3. The victim appears to have been medically screened after 4 – 5 days of the alleged sexual assault.

4. The learned counsel for the respondent No.2 has reservations to grant bail to the applicant. According to him, the victim was just 15 years of age. Her consent was, therefore, immaterial.

5. It is a case of emotional involvement. Both the applicant and the victim eloped. They stayed together for about 4 days. The applicant is just 20 years of age. It will take time for commencement and conclusion of the trial. The victim was medically screened about 5 days after the alleged sexual assault. In this factual backdrop, I am inclined to grant bail to the applicant. Hence the order :

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0114/2022, registered at Palam Police station, District Parbhani for the offences punishable under Sections 363, 366, 376 of the Indian Penal Code, Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act and Sections 3(1)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.
- (iii) The applicant shall not trouble the victim.
- (iv) The applicant shall not tamper with the prosecution evidence in any manner.

**(R. G. AVACHAT)
JUDGE**

fmp/-