

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

BAIL APPLICATION NO. 1238 OF 2022

Sachin Sanjivan Kande

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. U.B. Bondar, Advocate for applicant

Mr. V.S. Badakh, A.P.P. for respondent no.1 – State

Mr. A.R. Gaikwad, Advocate for respondent no.2 - victim

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CORAM : R.G. AVACHAT, J.

DATE : 24th AUGUST, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 243 of 2021 registered with Dindrud Police Station, Dist. Beed for the offences punishable under Sections 363, 376(2)(n), 376(2)(i) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by the uncle (husband of maternal aunt) of the victim on 01st December, 2021 alleging the applicant to have had kidnapped the victim 'X' and has sexual intercourse with her. The victim is stated to be 16 years and 11 months old.

4. Learned counsel for Respondent No.2 would submit that investigation is still underway. The applicant is the maternal uncle of the victim. Consent of the victim is immaterial. He, therefore, urged for rejection of the application.

5. Perused the statement of the victim, wherein she has stated that she herself made a phone call to the applicant and called him. It was she, who insisted him to take her with him. It has also been stated therein that she had given threats of committing suicide if the applicant did not take her to stay with him. In the circumstances, the applicant, according to learned counsel, had no option but to take her with him. Both of them stayed together as husband and wife for over seven months.

6. The applicant is twenty-three years of age. He is behind the bars for little over one month. Statement of the victim herself, who is 16 years and 11 months old, leads this Court to grant the applicant bail. In view of

this, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released on bail, in connection with Crime No. 243 of 2021 registered with Dindrud Police Station, Dist. Beed for the offences punishable under Sections 363, 376(2)(n), 376(2)(i) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, on 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 enter village Revali, Tq. Parali (V). Dist. Beed, till conclusion of trial.

(IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD