

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

**BAIL APPLICATION NO. 1306 OF 2022**

Nageshwar @ Nagesh Avinash Shinde

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. S.J. Salunke, Advocate for applicant

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

Ms. Jayshree Ghorpade (Nawale), Advocate for respondent no.2 (appointed)

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**CORAM : R.G. AVACHAT, J.**

**DATE : 08<sup>th</sup> SEPTEMBER, 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. 143 of 2021 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under Sections 363, 366A, 376(2)(n) and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1), 4, 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012.

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

3. The F.I.R. has been lodged by mother of the victim on 21<sup>st</sup> June, 2021. As per the case of prosecution itself, the applicant and the victim were

emotionally involved. Both of them eloped and stayed in Pune for little over three months. During said period, the applicant allegedly had sexual intercourse with the victim, who was little over sixteen years of age at the relevant time.

4. Both, learned A.P.P. and learned counsel for the victim urged for rejection of the application on the ground that consent of the victim is immaterial. The medical evidence supports the prosecution case.

5. Considered the submissions advanced. The applicant is twenty-two years of age. It is the case of emotional involvement. True, the victim was below eighteen years of age. On investigation, the charge-sheet has been filed. It will necessarily take time for commencement and conclusion of trial. In view of these facts, the Court is inclined to grant the applicant bail.

6. In view of above, 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. 143 of 2021 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under Sections

363, 366A, 376(2)(n) and 506 read with Section 34 of the Indian Penal Code and under Sections 3(1), 4, 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012, 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 tamper with the prosecution evidence.

(IV) Fees of Ms. Jayshree Ghorpade (Nawale), learned counsel, is quantified to Rs.6,000/-.

**( R.G. AVACHAT, J. )**

SSD