

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

BAIL APPLICATION NO.1528 OF 2022

Shahabir @ Shabir Usman Tadv	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.M.K.Bhosale, Advocate for applicant
Mr.A.V.Deshmukh, APP for respondent no.1
Ms.Sukanya B. Chaudhari, Advocate (appointed) for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 07, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0018 of 2022 registered with Raver Police Station, Dist.Jalgaon, for the offences punishable under Sections 363, 376(2) (n) and 506 of Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

2. Heard learned counsel appearing for the parties.
3. The First Information Report (FIR) has been lodged by the father of the victim. The sum and substance of the prosecution case is that the applicant kidnapped the victim and had sexual intercourse with her many a time. The victim was below 18 years of age and her

consent was, therefore, immaterial. On investigation, charge sheet has been filed.

4. Learned APP and learned counsel representing the victim would submit that fearing the applicant and his family members, the victim, in her first statement, did not attribute sexual assault by the applicant. She has in her statement recorded under Section 164 of the Code of Criminal Procedure, disclosed everything. The applicant allegedly took her away to Raver and kept her at some construction site. Both of them stayed there for about five days. During their togetherness, the applicant sexually exploited her.

5. Considered submissions advanced and perused the police papers. The applicant is just 21 years of age. The victim, at the material time, was 16-17 years of age. Reading between the lines indicates that both of them were emotionally involved. The victim herself joined the applicant. Both of them eloped and stayed together at Raver for five days. After having been brought back, statement of the victim was recorded on 25.01.2022, wherein she did not attribute the applicant with any overt act or sexual assault. It is only after two months, i.e. on 06.04.2022, the victim changed her version and alleged the applicant to have had sexual intercourse with her.

6. On investigation, charge sheet has been filed. It will take time for commencement and conclusion of the trial. The applicant is 21 years of age. Considering that the age of the victim was 17 years at the relevant time and she changed her version after two months, this Court is inclined to grant the applicant bail.

7. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0018 of 2022 registered with Raver Police Station, Dist.Jalgaon, for the offences punishable under Sections 363, 376(2)(n) and 506 of Indian Penal Code and Section 4 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 tamper with the prosecution evidence.

(iv) Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.6,000/- (Rupees Six Thousand).

[R.G. AVACHAT, J.]

KBP