

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

**BAIL APPLICATION NO.318 OF 2023
WITH APPLN/888/2023 IN BA/318/2023**

**NAVNATH SURESH GADMBE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. N. S. Ghanekar
APP for Respondent No.1: Mr. S. P. Sonpawale
Advocate for the respondent No.2 : Mr. M. M. Parghane

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CORAM : S. G. MEHARE, J.

DATE : 10.03.2023

PER COURT :

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1 State and the learned counsel for respondent No.2/ the victim.
2. The statement of the victim reveals that she had love affair with the applicant. She eloped with the applicant and they started residing together. During her stay, she never tried to flee away. However, the statement dated 02.11.2022 reveals that the applicant did sex with her without her consent.
3. The learned counsel for the applicant pointed out that the

applicant and the victim were produced before Vasmat police station on 01.11.2022. The prosecution has no explanation as to why her statement was not immediately recorded on the very same day. The reason is obvious that she was to tutor to state against the applicant. In fact, she had no complaint against the applicant but she was forced to state against the applicant.

3. The application has been resisted by the prosecution and the learned counsel for the victim. Since the issue raised about tutoring, the time was granted to prosecution to place on record her statement recorded under Section 164 of the Cr. P.C. The learned A.P.P. wrote a letter to the investigating officer but he did not respond. Therefore, an adverse inference has been drawn against the prosecution that she did not support the prosecution and possibility of tutoring cannot be ruled out. She was in advance age to know the consequences of the act she was committing. It appears a case of love affair. The investigation has been completed. Nothing is to be recovered from the applicant. The applicant is also a young boy having no antecedents. In the facts and circumstances of the case he deserves bail. Hence, the order :-

- (i) The application is allowed.
- (ii) Applicant Navnath Suresh Gadmbe be released on bail, on

furnishing P. B. and S.B. of Rs. 50,000/- (Rupees Fifty Thousand only), with one solvent surety of the like amount, in Crime No. 205 of 2022, registered at Basmath Police Station, District Hingoli, for the offences punishable under Sections 363, 376(2)(j), 376(2)(a)(n), 376(3) of the Indian Penal Code and Sections 3 and 4 of the Protection of Children From Sexual Offences Act, on the conditions that,

- (a) He shall not tamper with the prosecution witnesses.
- (b) He shall not contact the victim and her parents till conclusion of the trial.
- (iii) Criminal Application No. 888 of 2023 stands disposed of.

(S. G. MEHARE)
JUDGE

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