

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

BAIL APPLICATION NO.556 OF 2023

ANIL RAMESHCHANDRA CHAUDHARY AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. S. E. Shekade
APP for Respondent No.1: Mr. S. B. Narwade
Advocate for respondent No.2 : Pratibha H. Suryawanshi
(through Legal Aid)

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CORAM : S. G. MEHARE, J.

DATE : 21.04.2023

PER COURT :

1. Heard the learned counsel for the applicant, learned A.P.P for the respondent No.1 State and learned counsel for the respondent No.2/victim.

2. The applicants are seeking bail in crime No. 850 of 2022 registered with police Station Shevgaon, District Ahmednagar for the offences punishable under Sections 363, 366, 376(2)(n), 372, 373, 506 read with Section 34 of the Indian Penal Code and under Section 3,4,8 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 9, 10,11 of the Prohibition of Child Marriage Act,

2006 and under Sections 3(1)(w)(i)(ii), 3(2)(va),3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989.

3. The allegations reveal that one of the co-accused called the victim at Aurangabad for *Jagran* programme. She came on his phone. She alleged that he took her in a hut and did sex, then she travelled for many days and reached to the place where applicants were residing. The allegations against the applicant No.1 is that he married the victim and applicant No.2 paid Rs. 1,50,000/- to the co-accused as they purchased her to marry with applicant No.1.

4. The learned counsel for the applicants submits that the applicants did not know the caste of the victim. There was no allegations of forcible sex with her or she was confined any time. She has made the false allegations that wife of applicant No.2 was demanding their money of Rs. 1,50,000/- back. The victim never resisted anybody. She pretended that she was a major. Hence, the applicants believed her. In fact they have been cheated by the other co-accused. The applicants are from the good family having no

antecedents. At the most they may be charged for the offence punishable under the provisions of Prohibition of Child Marriage Act 2006 for which the maximum punishment is two years. The applicants are languishing in jail since last five months. They are ready to abide by the conditions, if any, while enlarging them on bail.

5. The learned A.P.P. for the respondent No.1 State has strongly opposed the application. He would argue that *prima facie* the offence is serious. The victim was 15 years old and she was induced by all the accused and systematically taken to the house of the accused. They were in contact with other co-accused about selling the victim to the applicants. The applicants have played an active role and they were knowing that they are committing crime. The marriage is against the will of the victim. The offence has been committed with common intention. They are permanent resident of State of Madhya Pradesh, therefore, there is a great possibility of absconding. Hence they do not deserve bail.

6. In addition thereto the learned counsel Pratibha

Suryawanshi appearing for the victim has vehemently argued that the main accused who called the victim at Aurangabad was in contact with other co-accused and in conspiracy a serious crime has been committed. The victim was unaware that the accused are going to sell her to marry the applicant No.1. She was minor, therefore, her conduct may be ignored. The offences are serious, hence bail may not be granted.

7. Perused the papers. No doubt one of the accused called the victim at Aurangabad. Immediately reaching to Aurangabad as alleged he did forcible sex with her. That time the victim had no complaint. She was travelled with other co-accused from one place to another. It appears that she never tried to rescue or asked for the help to the nearby persons. Considering the entire facts of the case, without discussing in detail, this Court is of the view that there are question of facts to be tested before the Court during the trial. Whether the applicants were unaware of the facts that she was kidnapped for her marriage is also the matter of trial. Considering the allegations levelled against the applicants the Court is of the view that their further detention would be fruitless. The apprehension of the prosecution that the

accused may not attend the Court can be guarded by imposing certain conditions. Hence, the following order :-

ORDER

(i) The application is allowed.

(ii) Applicant No.1 Anil Rameshchandra Chaudhary and applicant No.2 Mukesh Rameschandra Chaudhry be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount, in in crime No. 850 of 2022 registered with police Station Shevgaon, District Ahmednagar for the aforementioned offences, on the following conditions :

(a) The applicant shall not tamper with the prosecution witnesses.

(b) They shall submit their own and their family members identity cards like Aadhaar cards, ration card if any to the concerned police station before the release.

(c) They shall furnish their mobile phone numbers with an undertaking to the investigating officer that they will not change the said phone numbers, to the investigating officer, till conclusion of the trial.

(c) They shall attend the trial on each and every date.

(d) They shall intimate their presence in their village to the P.S.O Shevgaon, District Ahmednagar on telephone on every first and last Friday of the month between 9.00 a.m. to 11 a.m. till the conclusion of the trial.

(iv) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to the learned counsel Pratibha H. Suryawanshi as per the schedule.

(S. G. MEHARE)
JUDGE

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