

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

BAIL APPLICATION NO.646 OF 2023

BALAJI KESHAV JUNNE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. A. M. Gaikwad
APP for Respondent No.1: Mr. K. S. Patil
Advocate for respondent No.2 : Mr. N. S. Kadam

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CORAM : S. G. MEHARE, J.

DATE : 26.04.2023

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 complainant.
2. The applicant is seeking bail in Crime No. 389 of 2022 registered with Mukhed Police Station, District Nanded for the offence punishable under Sections 363, 366, 376(2)(N), 376(3) of the Indian Penal Code and Section 4 and 6 of the Protection of Children from Sexual Offences Act.
3. The applicant came with a case of love affair and voluntary eloping with him.
4. The learned counsel for the victim would argue that

the victim was only 15 years old and not able to take appropriate decision. The applicant induced her to elope, therefore, in view of definition of child in the POCSO, Act her consent is immaterial. Hence, he may not be granted bail.

5. Perused the papers. It reflects that the victim and the applicant were knowing each other well. The victim stayed with him for four days away from her parental home. She never resisted him. In various cases, the Court has discarded the plea of incapability of taking the decision by a girl of 15 years and above. The facts of the case reveal that the victim was knowing well the consequences of the act she was doing. That apart, detaining the applicant further in jail would serve no purpose. The charge sheet has been filed. Hence, the applicant deserves bail on certain condition. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Balaji Keshav Junne be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in aforementioned crime registered with aforementioned police station, on the following conditions :
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not contact the victim till the conclusion of the trial.

- (c) The applicant shall not enter village where the victim and her parents reside, till the conclusion of the trial.
- (d) The applicant shall not protract the trial and attend the same on each and every effective date.

**(S. G. MEHARE)
JUDGE**

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