

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

18 BAIL APPLICATION NO.1151 OF 2023

DNYANESHWAR RANGRAO RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent-State : Mr. K. S. Patil.
Advocate for Respondent No.2 : Mr. S. S. Londhe.
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CORAM : S. G. MEHARE, J.
DATE : 07.08.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the victim/respondent No.2.
2. The applicant seeks bail in Crime No.366 of 2022, registered with Basamba Police Station, District Hingoli, for the offences punishable under Sections 363, 366-A, 354-A, 376, 376(2)(n) of the IPC, Sections 3(1)(w), 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Sections 4, 8, 12 of the POCSO Act.
3. The victim was 15 years 10 months old when she was found in the custody of the applicant at Bus Stand Basmat.

The police got suspicion against them. Hence, they took them to Basmat Police Station and on the very next day, they were handed over to the Police Station Basamba. It is the prosecution case that the parents were not knowing anything about the so called relationship between the applicant and the victim. However, her statement reveals that she voluntarily eloped with the applicant at the late hours in night. She has also changed her case drastically in her statement before the Magistrate which was belatedly recorded. Her medical evidence also does not concretely support that there were sexual assault and she had injuries due to forceful sex. Though the learned counsel for the victim argued that she was the minor and the accused did forceful sex with her, the circumstances do not support the case.

4. Considering her conduct, it reveals that she was knowing well the applicant and voluntarily eloped with him. In the absence of sufficient material as alleged about the sexual assault and the prosecution case is admitted as it is, at the most it may be a case of kidnapping. Her changing versions making more serious allegations against the applicant in her statement under Section 164 of the Cr.PC, pinpoints the possibility of tutoring. The facts support the applicant to get the bail.

However, to guard the interest of the victim and her relatives, certain conditions may be imposed. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **DNYANESHWAR RANGRAO RATHOD** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in Crime No.366 of 2022, registered with Basamba Police Station, District Hingoli, for the offences punishable under Section 363, 366-A, 354-A, 376, 376(2)(n) of the IPC, Sections 3(1)(w), 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 and Sections 4, 8, 12 of the POCSO Act, on the following conditions :
 - (a) The applicant shall not tamper with the prosecution witnesses.

- (b) He shall not enter village Nandusa, Taluka and District Hingoli for three (3) months from the date of his release.
- (c) He shall not contact the victim or her relatives till the conclusion of the trial.

(S. G. MEHARE, J.)

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vmk/-