

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

920 BAIL APPLICATION NO.1375 OF 2023

RUPESH SHIVAJI GADHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Maniyar Irfan D
APP for Respondents : Mr. S.B. Narvade
Advocate for Respondent 2 : Mr. A.N. Patale

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 01, 2023

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PER COURT :-

1. The applicant is seeking regular bail in Sessions Case No.21 of 2023 arising out of Crime No.124 of 2023 registered with Bhokar police station, Tq.Bhokar, District Nanded for the offences punishable under sections 363, 366-A, 376(1)(2)(n) r/w 34 of the Indian Penal Code and u/s 4 and 8 of the Protection of Child From Sexual Offences Act (for short POCSO Act).

2. Investigation was set in motion on the basis of the information given by the father of the victim dated 13.4.2023. It was informed that the victim, who is aged about 16 years and 8 months has been kidnapped by the accused. It appears that on 17.4.2023 statement of the victim was recorded, wherein, she states that she had love affair with the applicant and with intention to marry they had left the home. Thereafter, they stayed at Hyderabad and then reported back to the police station.

aaa/-

3. Mr. Maniyar, learned advocate appearing for the applicant would submit that the victim and applicant had love affair and both of them had voluntarily left the village with intention to marry. Although, it is alleged that victim was minor, she was studying in 11th standard and appears to have sufficient understanding and knowledge. Further both of them returned back and reported to the police station.

4. Learned A.P.P. strongly opposes the prayer for grant of bail on the ground that the victim was minor and her consent would be irrelevant. Learned counsel appearing for the informant relying upon the statement of the victim under section 164 of the Cr.P.C. submit that the accused has forcibly established sexual relations with the victim. As such, he is not entitled for bail.

5. Having considered the submissions advanced, it is apparent that the applicant is hardly 20 years of age. Victim was around 17 years of age. She was taking education and understand consequences. Prima facie, material in the charge-sheet indicates that they had love affair and they had voluntarily left the village with intention to marry. Further acts are consensual in nature. The applicant is behind bar from 17.4.2023. Charge-sheet is filed. Investigation is completed. No purpose would be served by keeping the applicant behind bar. In that view of the matter, case is made out for grant of bail. Hence, following order.

O R D E R

I. Criminal Bail Application is hereby allowed.

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II. The applicant-RUPESH SHIVAJI GADHE in Special Case No.21 of 2023 arising out of Crime No.124 of 2023 registered with Bhokar police station, Tq. Bhokar, District Nanded for the offences punishable under sections 363, 366-A, 376(1)(2) (n) r/w 34 of the Indian Penal Code and u/s 4 and 8 of the Protection of Child From Sexual Offences Act, be released on bail on furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
- b] The applicant shall not establish contact with the victim or any person named in the charge sheet.
- C] The applicant shall not leave State of Maharashtra without permission of the Sessions Court.

III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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