

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

BAIL APPLICATION NO.1414 OF 2023

1. Tayar s/o Rashid Shaikh
Age: 32 years, Occu: Majuri,
R/o: Adarsh colony Wakad, Tq. Mulshi,
Dist. Pune

... Applicant

Versus

1. The State of Maharashtra
Through : In-charge Police Inspector
Shrirampur Taluka Police Station
Tq. Shrirampur, District Ahmednagar

2. XYZ

... Respondents

...

Mr. Ajit B. Chormal, Advocate for the Applicant
Mr. S. B. Narwade, APP for the Respondent/State
Mr. Rohit P. Patwardhan, Advocate for Respondent No.2

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 06.09.2023

PER COURT :

1. Heard the learned Advocate appearing for the applicant and learned APP for the respondent/State.
2. The applicant is seeking regular bail in connection with Crime No.147/2023 registered with Shrirampur City Police Station, Taluka Shrirampur, District Ahmednagar for the offences punishable under Sections 363, 366-A, 376(2)(n), 504, 506 of

the Indian Penal Code [for short 'IPC'] and Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 [for short 'POCSO Act'] and Sections 3(1)(w)(i)(ii), 3(2)(V-A), 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act.

3. On information given by mother of the victim, Crime No.147/2023 is registered. It is alleged that, the informant and her family members had left the home for attending their work. The minor daughter aged about 16 years was at home. In the evening, it was revealed that, since morning about 11.30 hours, the victim is not traceable. It was suspected that, she has been kidnapped. Initially, the offence under Section 363 of IPC was registered. The investigation was carried. The victim was traced out. Her statement is recorded. In her statement, she states that, she had developed affinity with the accused. The accused had come to receive her on his motorcycle and thereafter, she left the home with him. Thereafter, she stayed with the accused at Thergaon, Padwal Nagar, Pimpri Chinchwad. During day time, the accused used to stay with her and in the evening, he used to go home. It is alleged that, during this period, the accused had established physical relationship with the victim.
4. The statement of the victim is further recorded under Section 164 before the Judicial Magistrate, First Class, Shrirampur where she states that she is in love with the victim and therefore, she accompanied him. She states that she has no complaint against the applicant. The investigation is completed and charge-sheet is

also filed. Apparently, the victim is a minor, aged about 16 years. Therefore, offences under POCSO Act as well as 376 (2)(N) of IPC are incorporated in the charge-sheet.

5. Learned Advocate appearing for the applicant would submit that the applicant is behind the bars for more than five months. The victim had love affair with the applicant and on her own volition, she left her house and accompanied the applicant. Thereafter, they stayed together. The acts between the applicant and victim are consensual in nature. The informant/mother of the victim has also consented for release of the applicant on bail.
6. Learned APP however vehemently opposes the application. He would submit that the applicant has systematically brain washed the minor girl and kidnapped her. He would point out that, the applicant is a married person, aged about 32 years, having two children out of his wed-lock. He would further points out that the applicant had ill-eye against him since beginning. Her mother with intention to protect her had left her previous place of employment and shifted for work in the nearby places of her home. However, the applicant has systematically kidnapped the victim and committed the heinous offence.
7. Having considered the submissions advanced, apparently, the victim is aged about 16 years. She is a school going girl. Going by the statement of victim, she had love affair with the applicant and she has voluntarily left her home and accompanied him. She stayed with him in a common residence. The statement of victim

under Section 164 shows that the victim had developed affinity with the applicant and she voluntarily accompanied him to Wakad District Pune and stayed about one month in a common room. She further states that she has no complaint against the applicant. Although the victim is a minor, it appears that, she has the age of understanding. She volunteers that she has no complaint against the applicant and her acts are consensual in nature. Even the informant has taken the same stand. In this background, further detention of the applicant may not be necessary. However, his release on bail must be conditional keeping in mind the interest of prosecution. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Tayar s/o Rashid Shaikh be released on bail in connection with Crime No.147/2023 registered with Shrirampur City Police Station, Taluka Shrirampur, District Ahmednagar for the offences punishable under Sections 363, 366-A, 376(2)(n), 504, 506 of the Indian Penal Code [for short 'IPC'] and Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 [for short 'POCSO Act'] and Sections 3(1)(w)(i)(ii), 3(2)(V-A), 3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand Only) on the following conditions:

- a) The applicant shall not tamper with the prosecution evidence in any manner.
 - b) He shall not establish the contact with the victim or her family members.
 - c) He shall not enter Shrirampur Taluka District Ahmednagar except for attending the Police Station or court proceedings.
 - d) He shall attend each and every effective date of the trial.
- (iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer