

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1456 OF 2023**

KRUSHNA NAGNATH MITHPALLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Shivaji B. Bhapkar, Advocate for the Applicant.

Mr. K. S. Patil, APP for Respondents-State.

Mr. N. R. Shaikh, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 16th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.96/2023 registered with Palam Police Station, Dist. Parbhani for the offences punishable under Sections 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The investigation was set in motion on the basis of the information given on 27.05.2023 by the victim herself. She alleges that presently she is prosecuting her studies in B.A. 2nd year at Ahilyadevi Holkar College at Ranisavargaon. She further alleges that her date of birth is 06.07.2004. In the year 2018 she passed 10th standard. She had received Sanad, which was handed over to the applicant/accused for the purpose of filling the application form for her employment. She alleges that sometime in the year 2019, the accused/applicant established forcible sexual intercourse with her and continued to do so inspite of her opposition. She alleges that later on, he snapped some photographs while kissing her and threatened to make viral on social media. She further alleges that on 20.05.2023 while her family members had been to the programme of Kirtan, the accused/applicant had been to her home and forcibly established

sexual intercourse. As such, she alleges that since the year 2019 till 20.05.2023, the accused/applicant had continuously established forcible sexual intercourse with her. Based on the said information, Crime No.96/2023 came to be registered against the accused/applicant. Immediately, the accused/applicant is arrested on 05.06.2023. Since then, he is behind the bar. The investigation progressed. The charge-sheet came to be filed for the offences punishable under Sections 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

3. Mr. Bhapkar, learned Advocate appearing for the applicant would submit that, if the applicant had established forcible sexual intercourse with the applicant since the year 2019, one wonders what prevented her from making complaint. He would submit that last sexual intercourse is alleged to have established on 20.05.2023, however, the complaint is lodged on 27.05.2023 i.e. after delay of 7 days. He would submit that there was consensual relationship between the applicant and the victim. However, false complaint has been lodged. Therefore, he urges to release the applicant on bail.

4. The learned APP as well as the learned Advocate appearing for the complainant/victim vehemently oppose the prayer for grant of bail. They would submit that the applicant has been ravished since the year 2019, when she was barely 15 years of age. Thereafter, under the pretext of making viral some video clips and photographs she was forced to maintain sexual relations. The offence is serious. Hence, they oppose to release the applicant on bail.

5. Having considered submissions advanced, it is apparent that the victim passed her 10th standard in the year

2018. She understands the worldly affairs. She alleges that in the year 2019 first time the applicant had established forcible sexual intercourse with her and the same was continued for four years. The evidence in the charge-sheet, particularly history/narration given by the victim at the time of her medical examination shows that twice she was required to abort pregnancy. If such is state of affairs, there is no reason why the earlier complaint is not lodged. In this background, the submissions on behalf of the applicant that there was consensual relationship between the applicant and the victim cannot be ruled out. The investigation in the matter is completed. The charge-sheet is filed. The further detention of the applicant would not be necessary. In that view of the matter, case is made out for grant of bail. Hence, following order:-

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Krushna S/o Nagnath Mithpalle be released on bail in Crime No.96/2023 registered with Palam Police Station, Dist. Parbhani for the offences punishable under Sections 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall not establish contact with the victim or any other witnesses named in the charge-sheet.
 - c. The applicant shall not indulge in similar offence.
- (iii) Application is disposed of.

(iv) Since Mr. Shaikh, learned Advocate has been appointed through Legal Aid to represent respondent no.2/victim, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE