

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

944 BAIL APPLICATION NO.1463 OF 2023

**RAVI @ VIKAS DEVIDAS RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Sopan G. Bobde
APP for Respondents: Ms. P.V. Diggikar
Advocate for Respondents : Mr. Vishnu Jaware.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 21st SEPTEMBER, 2023

ORDER :-

By this application, the applicant seeks regular bail in connection with Crime No. 105 of 2023 registered with Soygaon Police Station, Dist. Aurangabad for the offences punishable under Sections 363, 366 and 376(3) of IPC and section 4,6,8, and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The investigation was set in motion on the basis of the report given by the father of the victim. Initially, it was reported that unknown person has kidnapped the victim, who is aged about 15 years and 5 months. Subsequently, it is revealed that the victim had left the house in the company of the applicant. They stayed together in a field near Pune. Thereafter, the victim is brought back. It is alleged that during the period of stay at Pune, the applicant had established sexual relations with the victim. Accordingly, graver offence under Sections 376(3) of IPC and Section 4,6,8 and 12 of POCSO Act are added. The applicant has been arrested on 17.6.2023. Since then, he is behind bars. The prayer of the applicant for grant of regular bail has been negated by the learned

Sessions Judge vide order dated 10.8.2023. Hence, the present application for grant of bail.

3. Mr. Bobade, learned advocate for the applicant would submit that the applicant is behind bars for more than 3 months. The investigation in the matter has been completed and charge sheet is filed. He would submit that it is a matter of love affair between the applicant and the victim. The victim had left the house alongwith the applicant with intention to marry and both of them stayed together at Pune. If any sexual act is alleged, the same is consensual sex. Therefore, he submits that the applicant be released on regular bail.

4. Learned APP and the learned counsel for the first informant have vehemently opposed the prayer. It is submitted that the applicant is in close relation with the informant. He is cousin uncle of the victim. Considering this relationship, inducement on the part of the applicant can be inferred. Further, the age of the victim is less than 15 years at the time of incident. As such, her consent would be irrelevant. They would submit that looking to the object of the provisions of the POCSO Act, the applicant is not entitled for grant of bail.

5. Having considered the submissions advanced, it is apparent that the victim had left her house at her volition. She accompanied the applicant at her own will. Both of them travelled to Jalgaon on motor bike. Thereafter, they travelled to Pune in a bus and stayed together in a field as husband and wife. It is alleged that during the stay, there was sexual relationship between the applicant and the victim. Apparently, the act of victim appears to be consensual in nature. Although the victim is about 15 years of age, she appears to be a girl of sufficient understanding. She is educated upto 7th Standard. The applicant is in relation with the family of the informant. He is aged about 21 years.

The possibility of love affair between them can not be ruled out. The applicant is behind bars since more than 3 months. The investigation is complete. Further detention of the applicant may not be necessary. However, certain conditions can be imposed to secure presence of applicant during the trial, so also to secure the interest of the prosecution. Hence, a case is made out for grant of bail. Hence, the following order :-

: O R D E R :

- (I) The application is allowed.
- (ii) Applicant – Ravi @ Vikas Devidas Rathod be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in crime No. 105 of 2023 registered with police station, Soygaon, Dist. Aurangabad on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not establish contact with victim or her family members in any mode or manner till conclusion of the trial.
 - (c) He shall attend the trial on each and every effective date.
 - (d) He shall not enter the Banoti Tanda, Taluka Soygaon, District Aurangabad till conclusion of the trial.
 - (e) Since Mr. Vishnu Jaware, Advocate has been appointed to represent the victim through Maharashtra Legal Services Authority, Sub-Committee, Aurangabad, his remuneration be paid as per Rules.
 - (f) The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE