

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

918 BAIL APPLICATION NO.1693 OF 2022

DATTA SAMBHAJI SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Bagal Suraj R.
APP for Respondent-State : Mr. S. P. Sonpawale.
Advocate for Respondent No.2 : Ms. Asha Gore -Appointed.

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CORAM : S. G. MEHARE, J.
DATE : 16.02.2023

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and the learned counsel appointed for respondent No.2/victim.

2. It is the case of the victim that the applicant married her fraudulently. However, she was living with him as his wife. He performed marriage with her in a temple. After about three (3) months of their marriage, she learnt that she is pregnant from the applicant. She told her mother that she married the applicant, she is pregnant and well. However, the subsequently the allegations were made against the applicant that in the month of November, he brought one bond paper and obtained her signature under the pretext that they would go to

Hyderabad. She did not understand Marathi language. On the very same day, the applicant quarreled with her and told that they have been divorced. Thereafter, she went to Nijamabad and told the incident to Child help Line. In such a way, the offence has been registered.

3. Learned counsel for the victim has vehemently opposed the application and contended that at the time of the alleged marriage, she was minor. She could not understand Marathi language. He has fraudulently obtained the divorce and deserted her. The offence is serious. The applicant was already married and had a child. By playing fraud and doing sex with her, he cheated the victim and compelled to accept him as her husband. In view of the facts and gravity of the offence, he may not be granted bail.

4. Learned APP would also argue that the paternity of the child has been proved from DNA test. Therefore, bail may not be granted.

5. Learned counsel for the applicant would submit that the applicant got married the victim. They were living happily. However, her parents interfered, therefore, she became annoyed and left his home at her own. He did not deny the paternity. He was ever ready to cohabit with her, but she was

forcing him to stay at Hyderabad. The marriage was not denied, therefore, the offence of 376 would not attract. The applicant is still ready to cohabit with her.

6. Perused the papers produced before the Court. It is not in dispute that the victim got married with the applicant. They were living as husband and wife. During her stay with the applicant as husband and wife, the parents never raised any voice. There may be possibility of family discord. The applicant has not denied the paternity of the child. In these peculiar circumstances and facts of the case and completion of the investigation, it would be inappropriate to keep the applicant behind bar. He deserves bail on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **DATTA SAMBHAJI SHINDE** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.234 of 2021, registered by Police Station Osmannagar, District Nanded, for the offences punishable under Sections 376(2)(n), 376(2)(f) of the IPC, Section

3(1)(w), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 4, 6 of the POCSO Act and Section 9 and 10 of the Prohibition of Child Marriage Act, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
 - (b) He shall not leave village Dahikalamba without intimation to the concerned Police Station till the conclusion of the trial.
 - (c) He shall not contact the victim and any of the witnesses till the conclusion of the trial.
 - (d) He shall attend the trial on each effective date.
- (iii) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to advocate Ms. Gore, as per the schedule.

(S. G. MEHARE, J.)

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vmk/-

