

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
APPLICATION FOR CANCELLATION OF BAIL NO.168 OF
2023**

XYZ
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. R. G. Hange, Advocate for the Applicant.
Mrs. P. V. Diggikar, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 12th SEPTEMBER, 2023.

PER COURT:-

1. The first informant filed present application challenging the order dated 04.08.2023 passed in Miscellaneous Criminal Bail Application No.752/2023 by the learned Additional Sessions Judge, Beed, thereby granting the application for Regular Bail filed by respondent no.2-Accused.

2. It appears that on the information of the applicant/father of the victim the investigation was set in motion. It is alleged that the victim was missing since 08.07.2023. After taking search with the relatives, her whereabouts could not be traced. It is stated that the victim is aged about 17 years and 4 months and she has been kidnapped by unknown person. The respondent no.2 was arrested in pursuance of the aforesaid crime. The Bail Application was filed by him before the Sessions Judge at Beed. The learned Sessions Judge observed in its order that it is a case of love affair. The applicant is hardly 18 years of age. The age of the victim appears to be 17 years and 4 months. It is

also observed that custody of the applicant is not required. The various conditions are imposed to serve the interest of the prosecution and bail has been granted to respondent no.2.

3. The learned Advocate appearing for the applicant would submit that the victim was minor girl. Her consent would be immaterial. The serious offences including offences under POCSO Act are invoked. The learned Sessions Judge without referring to the affidavit filed by the informant made certain observations, which are contrary to the record and released the applicant on bail, although charges are for heinous offence.

4. Having considered the submissions advanced, it is apparent that before granting bail, notice was issued to the informant and victim was heard. On *prima facie* consideration of the material on record, the learned Sessions Judge has observed that it is a case of love affair. Considering the proximity of age of the applicant as well as victim, it can be inferred that whatever happened between the accused and informant was consensual. The learned Sessions Judge has rightly considered the aforesaid aspects and granted bail. There is no reason to interfere in the discretion exercised by the learned Sessions Judge. Hence, the application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE