

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1593 OF 2023**

NITIN BANDU DHNURE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Amar D. Soman, Advocate for the Applicant.
Mrs. P. V. Diggikar, APP for Respondents-State.
Mr. D. R. Dhumal, Advocate for Respondent No.2.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 30th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.69 of 2023 registered with Sonkhed police station, District Nanded for the offences punishable under sections 363, 366-A, 396(2)(J), 376(3) of the Indian Penal Code and Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act.

2. The investigation was set in motion on the basis of the information given by mother of the victim alleging that on 26.05.2023 while she had been to the field, her daughter gone missing. Although the efforts were made to find out her, but whereabouts were not located. Accordingly, under suspicion that some unknown person has kidnapped the victim, the offence under Section 363 of the Indian Penal Code was registered. On return of the victim, her statement has been recorded on 30.05.2023, wherein she discloses that on 26.05.2023 at about 05.00 pm she was talking with the applicant, her grandfather had seen them together. Thereafter, applicant asked her that they shall flee away. Accordingly victim accompanied the applicant on motorcycle. They went to Nanded. Thereafter, they traveled together for 2-3 days by Railway and State transport buses. They stayed together in a room of the friend of the applicant, where the applicant established sexual relations with the her.

3. Mr. Soman, learned Advocate appearing for the applicant would submit that the applicant is a tender aged boy of 20 years. The victim is educated of 9th standard and understands worldly affairs. The contents of victim's statement shows that she had voluntarily accompanied with the applicant and traveled using public transport. Therefore, he submits that it was consensus act between the applicant and the victim. Hence, he urges to release the applicant on bail.

4. The learned APP as well as the learned Advocate appearing for the complainant vehemently oppose the prayer for grant of bail. They would submit that the victim is a minor. She is consistent on the point that she was forcibly subjected to sexual intercourse. As such, there is sufficient material to bring home guilt against the applicant.

5. Having considered the submissions advanced, it is apparent that on 26.05.2023, the victim accompanied the applicant on motorcycle and went to Nanded. Thereafter, victim alongwith applicant traveled from Nanded to Parbhani through State transport bus. Thereafter, she traveled from Parbhani to Aurangabad by Railway, where they stayed at the room of the applicant's friend. Again they traveled towards Nanded by Railway. The medical evidence on record shows that there are no signs of force exerted upon the victim. The medical examination report of the victim depicts that there is no evidence of fresh injury to the genital except old healed hymenal tears. On *prima facie* consideration of the medical evidence, the possibility of forcible sexual intercourse does not find support. Considering the age of the victim as well as the applicant, possibility of love affair cannot be ruled out. The applicant is behind the bar from 01.06.2023. The investigation in the matter is complete. Further

detention of the applicant would not be necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Nitin S/o Bandu Dhnure be released on bail in Crime No.69 of 2023 registered with Sonkhed police station, District Nanded for the offences punishable under sections 363, 366-A, 396(2)(J), 376(3) of the Indian Penal Code and Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act 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 make any attempt to contact the victim or any other witnesses named in the charge-sheet.
 - c. The applicant shall attend each and every effective date before the Trial Court.
- (iii) Application is disposed of.
- (iv) Since Mr. D. R. Dhumal, learned Advocate is appointed through the Legal Aid Panel, 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