

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

920 BAIL APPLICATION NO.1936 OF 2022

Bharat Pandit Ahire,
Age; 22 years, Occ; Labourer,
R/o; Behed, Tq. & Dist. Dhule.

...Applicant

VERSUS

1. The State of Maharashtra,
Through Police Station Inspector,
Shirpur Police Station, Tq. Shirpur,
District. Dhule.

2. X.Y.Z.

...Respondents

...

Advocate for Applicants : Mr.Girase Amarjitsing B. & Mr.Sisodiya
Ashutosh C.

APP for Respondent-State : Mr.K.S.Patil

Advocate for Respondent No. 2 : Mr. I.K.Wagh h/f Mr.More Kumar
Gaurav M.

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CORAM : S. G. MEHARE, J.

DATE : 18/01/2023

PER COURT :

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

2. The victim was 16 years of age at the time of the alleged
incident. She voluntarily eloped with the applicant as she was

pregnant from him. She was asking for medical termination but the applicant was saying that it is his child and he wanted to bring him up. Therefore, they fled away from the place. On one fine morning somebody informed police about their presence; hence they were taken to the Police Station. A missing report was already lodged by her parent. Then the present crime was registered.

3. It is not in dispute that the victim had delivered a child. The applicant never denied the paternity. Though it has been argued that the applicant is already married, there is no evidence on record. The applicant and the victim are tribal. They have their own marriage ceremonies and customs; however, the statement of the victim before the learned Judicial Magistrate does not disclose any grievance. She was of advanced age and in the age of information there is scope to believe that she was able to know the consequences of the act, she was doing with her body. The applicant is also 20 years young boy.

4. The learned counsel for the applicant, on instructions, states that the applicant is ready to pay certain amount for nutrition and care of the child. Considering the entire aspects and the facts of the case, the Court is of the view that no purpose would be served if the applicant is kept behind bar. However, certain conditions regarding the interest of the child and the victim may be imposed.

Hence the following order :

ORDER

- a) Application is allowed
- b) Applicant – Bharat Pandit Ahire, be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety in the like amount, in C.R.No.374 of 2022 registered with Shirpur Police Station, Tq. Shirpur, District; Dhule, for the offence punishable under Sections 376(2)(i)(n), 363 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act, 2012 on the conditions that -
- 1) The applicant shall not to tamper with the prosecution witnesses.
 - 2) The applicant should not force the victim in any way that may affect the trial.
 - 3) The applicant do pay Rs. 1500/- (Rs. One Thousand and Five Hundred only) p.m. to the victim for nutrition and care of the newly born child till conclusion of the trial.

(S. G. MEHARE)
JUDGE

mahajansb/