

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

43 BAIL APPLICATION NO.1807 OF 2023

AKSHAY @ PADAM RAMCHNDRA SONET
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant :Mr. Chandrakant V Bodkhe
APP for Respondents: Mr. K.S. Patil

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 23rd OCTOBER, 2023

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 302 of 2023 registered with Shillegaon Police station, Tq. Gangapur, Dist. Aurangabad for the offences punishable under Sections 366, 376(2) (n) of IPC.

2. The investigation was set in motion on the basis of complaint given by victim himself. She states that she is educated upto 12th standard. She was acquainted with the applicant. He would frequently visit her house. Because of the continuous conversations, she developed affinity for the applicant and they had a love affair. The relatives of the applicant had put up a proposal for her marriage with the applicant. However, her father refused such relationship. She further alleges that the applicant had gifted her a mobile phone. They had conversation with each other. The applicant was constantly persuading her for marriage.

She further alleges that on her disinclination, the applicant had threatened her that he will not allow her to marry with anyone else and threatened to kill her parents. She further alleged that on 9th August, 2023, the applicant came to her home and pressurized her to accompany with him. Under the threats, she went to Alandi, where, she performed marriage with the applicant at Riddhi-Siddhi Mangal Karyalaya. She alleges that thereafter, the applicant established physical relationship with her. Her father had lodged missing report with the police. Hence, she alongwith the applicant reported to Police Station. However, she did not file any complaint apprehending danger to her family. After she got support from her family members, she has lodged the report.

3. On the basis of the aforesaid report, Crime No. 302 of 2023 came to be registered with Sillegaon Police Station, Dist. Aurangabad for the offence under sections 366, 376(2)(n) of IPC. The applicant has been arrested on 14.9.2023 and since then he is behind bars. The applicant moved the Sessions Court for grant of bail. However, his prayer is rejected by order dated 30.9.2023. Hence, this application.

4. Learned counsel for the applicant would submit that it is explicit from the contents of the FIR that the victim had love affair with the applicant and she left the house in his company with intention to marry. Accordingly, both of them have married at Alandi as per the Hindu Rites and Customs. A Marriage Certificate is issued by the authority at Riddhi Siddhi Mangal Karyalaya. He would further submit since the father of the informant had lodged missing report to the police, the applicant alongwith victim reported to police station. Her statement was recorded by police, wherein, she has clearly stated that she had left the

home at her own volition. However, subsequently, at the instigation of her family members, the FIR has been lodged. He, therefore, submit that there is no offence as alleged.

5. Learned APP, and the learned counsel for respondent No.2 vehemently oppose the prayer. They would submit that victim's date of birth is 7th August, 2005. When the offence was committed, she was minor. Her consent is immaterial. As such, the applicant is guilty of the offence. Hence, they prayed for rejection of the application.

6. Having considered the submissions advanced, it is apparent that the statement of the victim has been recorded on 13.8.2023 when the applicant alongwith the victim reported to police station. In said statement, she has specifically averred that she had left the home on her own volition with the intention to marry with the applicant and accordingly, performed marriage at Riddhi Siddhi Mangal Karyalaya. The marriage certificate to that effect is issued. She has further stated that since her father had lodged a missing report, she reported back to the police station. Thereafter, the parents and relatives had assured that after Diwali, they would perform her marriage with applicant as per customs in the society. On such assurance, she went with the parents. She specifically narrates that she was never kidnapped and because she is major, on her own volition, had left the home with the applicant. Pertinently, the FIR is lodged after one month of recording of the statement dated 13.8.2023. Although victim admits about the love affair, in FIR she adds that she was pressurized for the marriage.

7. On prima facie consideration of the material on record, it

appears to be a case of love affair. The victim's conduct and evidence collected during the investigation is prima facie bereft to make out a case of kidnapping or rape. In that view of the matter, a case is made out for grant of bail. Hence, the order :-

O R D E R

- (i) The application is allowed.
- (ii) The applicant – Akshay @ Padam S/o. Ramchandra Sonet 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. 302 of 2023 registered with Shillegaon police station, Dist. Aurangabad, on the following conditions :-
 - [b] The applicant shall not tamper with the prosecution evidence.
 - [c] The applicant shall not establish any contact with the victim or the persons acquainted with the facts of the case.
 - [d] The applicant shall attend the trial on each and every effective date.
 - [e] The applicant shall attend the police station once in a week i.e. on every Sunday between 10 a.m. to 2.00 p.m.
 - [f] Since Ms. Pratibha N. Ghadge, Advocate is appointed through Legal Services Authority, her remuneration be paid as per Rules.
 - [g] The application is disposed of .

[S.G. CHAPALGAONKAR]
JUDGE

grt/-