

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

BAIL APPLICATION NO.1824 OF 2023

**ROHIT RAJU GHULE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Sunil B Surse
APP for Respondents: Mrs. P. J. Bharad.
Advocate for R-2 : Mr. R.J. Nirmal.

**CORAM : S.G. CHAPALGAONKAR, J.
DATE : 1st DECEMBER, 2023**

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 147 of 2023 dated 2nd May, 2023 registered with police station Pundlik Nagar, District Aurangabad for the offences punishable under sections 363, 376(3), (2), (N), 354, 354(B), 323, 506 of IPC and Sections 3, 4, 6(i), 7 and 8 of the POCSO, Act, 2012.

2. The investigation was set in motion on the basis of information of mother of the victim. It is alleged that on 30th April, 2023, her daughter/victim had gone missing. Accordingly, information was given to the police apprehending that some unknown person has induced the minor victim and kidnapped her. On 5.5.2023, the victim reported back home and recorded her statement before the police alleging that the applicant took her on the motorcycle on 30.4.2023. Thereafter, under the pretext that he will take her to Shirdi, he took her to Jalna, where, she stayed with him till 4.5.2023. During that period, they had multiple episodes of sexual relations. Lastly, on 5.5.2023, she

was brought back to home. The victim was subjected to medical examination, narrated history, wherein, she has categorically stated that she was in relationship with the applicant since last 3 month. On 30.4.2023, she accompanied with him and stayed at his friend's room, where they had multiple episodes of sexual intercourse. The investigation progressed. During the course of investigation, the applicant has been arrested on 5.5.2023. Since then he is behind bars. His prayer for grant of bail has been rejected by the Sessions Court vide order dated 4.9.2023.

3. The learned advocate for the applicant vehemently submit that it is a case of consensual sexual relationship or love affair between the applicant and the victim. He would submit tht the applicant, on her own volition, left the home alongwith the applicant and stayed with him for 4-5 days. During that period she asserts about sexual relations. Investigation in the matter is complete. Charge sheet is filed. The applicant has suffered incarceration for more than six months by this time. In this background, further detention of the applicant would not be necessary.

4. Learned APP and learned advocate for the complainant vehemently oppose the prayer for grant of bail. They would submit that the victim was aged about 14 years and 6 months at the time of incident. Her consent is immaterial. The applicant is an habitual offender. Previously 3 criminal cases are registered against him. Serious offences under IPC and POCSO Act are invoked against the applicant. On this count, they urge to reject the prayer.

5. Having considered the submissions advanced, it is apparent from the contents of the FIR that the victim left her home without reporting to her family members and then, she travelled with the applicant during the period from 30th April, 2023 to 5th May, 2023. She stayed with the applicant at Jalna. As per the statement of the victim recorded under Section 161 of the Cr.PC., there were multiple episodes of sexual intercourse during this period. Perusal of the history as given by victim before the Medical Officer at the time of examination of the victim, she states that she was in relationship with the applicant since last 3 months and travelled in the company of the applicant as well as stayed with him in friend's room, where, they had sexual intercourse. The report of medical examination nowhere depicts marks of injuries or physical violence. The statement of the victim is recorded under Section 164 of Cr.PC., wherein, she states that she had been Jalna alongwith the applicant. However, she nowhere states about her physical relationship with applicant.

Taking into account the aforesaid circumstances, prima facie, there is no evidence to indicate that the applicant has sexually exploited the victim or used any force for that purpose. On the other hand, it can be gathered that the victim accompanied the applicant on her own volition. So far as the criminal antecedents of the applicant are concerned, those are not in respect of similar offences. The applicant is aged 19 years. He has already suffered incarceration for mre than six months. Further detention of the applicant is, therefore, not necessary. In that view of the matter, a case is made out for grant of bail. Hence, the following order :-

6.

O R D E R

(i) The Bail application is allowed.

(ii) Applicant – Rohit Raju Ghule, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 147 of 2023 dated 2nd May, 2023 registered with police station Pundlik Nagar, District Aurangabad for the offences punishable under sections 363, 376(3), (2), (N), 354, 354(B), 323, 506 of IPC and Sections 3, 4, 6(i), 7 and 8 of the POCSO, Act, 2012, on the following conditions :-

[a] The applicant shall not tamper with the prosecution witnesses;

[b] He shall not establish any contact with the prosecutrix or any witness named in the charge sheet;

[c] He shall attend the trial on each and every effective date;

[d] He shall not indulge in similar offence.

[e] Since Mr. R.J. Nirmal, Advocate is appointed through Legal Services Authority to represent respondent No.2, his remuneration be paid as per Rules.

[iv] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-