

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

926 BAIL APPLICATION NO.1826 OF 2023

RAJU SANJU JAISWAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. J.J. Patil
APP for Respondent : Mr. K.S. Patil
Advocate for Respondent no.2 : Mr. A.P. Yenegure (appointed)

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 03, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.201 of 2023 registered with Badnapur police station, District Jalna for the offences punishable under sections 376 (2) r/w 34 of the Indian Penal Code, section 4,6,8,10 & 12 of Protection of Children from Sexual Offences Act, sections 9,10 & 11 of Prohibition of Child Marriage Act and sections 3(2)(v), 3(2)(v-a) and 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Investigation was set in motion on the basis of the information given by the victim herself alleging that her marriage was performed on 12.03.2021 with one Vilas Gautam Wakekar (accused No.01). However, because of harassment by her husband, her father took her to the maternal home. Thereafter, her marriage was performed with applicant accused – Raju at Ganpati Temple at Rajur. She resided with the

applicant/accused for some period. Applicant/accused established physical relationship with her. Thereafter, she went to maternal home. However, accused persons refused to take her home. On the other hand, applicant was asking to refund the amount of Rs.1,50,000/- that was received by the father of informant at marriage. On the basis of aforesaid allegations, Crime No.201 of 2023 came to be registered with Police Station, Badnapur, Dist. Jalna against in all seven accused persons including present applicant. Applicant has been arrested in pursuance of aforesaid crime and he is behind bar since 18.07.2023. On completion of investigation, charge-sheet is filed. His plea for grant of regular bail made by the applicant before Sessions Judge in Special Case No. 174 of 2023 has been rejected vide order dated 15.09.2023. Hence, this application.

3. Mr. Patil, learned advocate appearing for the applicant would submit that, applicant has been falsely implicated in aforesaid crime. He would submit that there is specific *modus operandi* of informant and her father. They are extracting money from needy persons, who are in search of suitable girl to perform marriage. He submit that present FIR refers to three marriages of informant. Second marriage is alleged to be performed with applicant. Learned Advocate appearing for applicant also invites attention of this court to charge-sheet filed against informant and her father in pursuance of registration of crime in Crime No.128 of 2022 with Police Station, Pachora, Dist. Jalgaon to contend that

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informant in that FIR was brutally assaulted by informant and her father. Learned council appearing for applicant would submit that alleged marriage between applicant/accused and informant was performed in year 2021, however, FIR has been lodged after more than two years. He would therefore submit that in fact, applicant is victim trap laid by informant and her father.

4. Learned A.P.P. as well as learned Advocate appearing on behalf of informant strongly opposes the prayer for grant of bail contending that date of birth of informant is 17.09.2005. In year 2021, she was hardly 16 years of age. Physical relationship was established by applicant/accused with her constitutes an offence under Section 376 of the Indian Penal Code so also under the Protection of Children from Sexual Offence Act, 2012.

5. Having considered the submissions advanced and material in the charge sheet, it can be gathered that father of informant had performed her first marriage with one Vilas Gautam Wakekar in March, 2021. Thereafter, second marriage of informant was performed with applicant and thereafter third marriage is performed with one Rahul Arjun Kale. Considering the time gap between the marriages, a specific *modus operandi* exerted by father of informant in connivance with daughter can be seen. Marriages are performed with motive to earn money by victimizing needy persons who are in search of girl for marriage. Apparently, alleged physical relationship

between applicant and informant was contentious in nature under pretext of marriage. It is not a case of establishing forcible sexual relationship. Although, age of victim shows that she was minor, however, prima facie her conduct shows that she is a girl of understanding worldly affairs and indulging herself into criminal activities alongwith her father. Investigation in the matter is complete. Charge-sheet is filed. Further detention of applicant would not be necessary. It is made clear that the observations as stated above are on the basis of prima facie consideration of material available in charge-sheet and only for purpose of disposal of this application. In that view of the matter, case is made out for grant of bail. Hence, following order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - RAJU SANJU JAISWAL be released on bail in connection with Crime No.201 of 2023 registered with Badnapur police station, District Jalna for the offences punishable under sections 376 (2) r/w 34 of the Indian Penal Code, Section 4,6,8,10 & 12 of Protection of Children from Sexual Offences Act, 2012, Sections 9, 10 & 11 of Prohibition of Child Marriage Act and Sections 3(2)(v), 3(2)(v-a) and 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on his furnishing P.B.

& S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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