

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

9 BAIL APPLICATION NO.1862 OF 2023

**GANPAT LAXMAN DHARADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Sanket L. Thange a/w Mr. S.E.
Shekade

APP for Respondent no.1 : Mrs P.V. Diggikar
Advocate for Respondent no.2 : Ms.M. G. Kasturkar
Appointed Through Legal Aid

...

**CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 07, 2023**

...

PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.389 of 2022 registered with Parner police station, District Ahmednagar for the offences punishable under sections 363, 366, 376 (2)(N) of the Indian Penal Code, u/s 4,6 of the Protection of Children from Sexual Offences Act, 2012 and u/s 9 of Prohibition of Child Marriage Act.

2. Investigation has been set in motion on the basis of the information given by father of the victim, who states that on 19.5.2022 his daughter got missing. Her whereabouts could not be located. As such, he suspects that some unknown person might have kidnapped her. Investigation progressed. During the course of the investigation, the statement of the victim is recorded under section 161 of Cr.P.C. as well as under

section 164 of the Cr.PC. the applicant has been arrested on 22.5.202. Since then, he is behind bar.

3. Mr. Shekade learned advocate appearing for the applicant would submit that statement of victim depicts that she had left her home on her own volition with intention to marry with the applicant. He would further point out that the statement of the victim recorded before the Magistrate under section 164 of the Cr.PC. nowhere depicts that victim had kidnapped by the applicant. He further pointed out that medical evidence do not chillingly establish that victim was forcibly subjected to sexual assault. He would further submit that the applicant is behind bar for more than 5 months. As such, urges to release him on bail.

4. Learned A.P.P. as well as learned advocate appearing for the informant strongly opposes the prayer on the ground that victim is hardly 15 years of age, whereas the applicant is aged about 29 years, which is sufficient to rule out possibility of love affair.

5. Having considered the submissions advanced, apparently, the FIR was lodged in the nature of missing report or alleging kidnapping of minor victim. During course of the investigation, victim was located at the home of the sister of the applicant on 24.6.2022. The statement of victim has been recorded on 27.6.2022 under section 161 of Cr.PC. wherein she has attributed certain allegations that she was forcibly taken on motorcycle and marriage was solemnized on

20.5.2022 against her wish. However, statement of the victim recorded immediately on next date on 27.6.2022 before the Magistrate under section 164 of Cr.P.C. would depict that the victim was in contact with the applicant through social media. On 19.5.2022 victim on her own volition left the home and went alongwith the applicant at village Kotul with intention to marry with the applicant. In presence of the family member, she went to Ulhasnagar for purchasing. Thereafter stayed at village Titwala during period from 20 June to 24 June. She alleges that thereafter the applicant left for Jammu and Kashmir to join his duty. During her stay, applicant established physical relations with her. She further clarifies that the applicant would marry her on attaining the age of majority.

6. Aforesaid aspects of the matter although indicative of commission of offences under the IPC so also POCSO Act, considering the fact that victim is educated up to 10th standard and understands wordly affair. Further, she was active on social media. On her own volition, she left the home with intention to marry with applicant, it would not be appropriate to continue further detention of the applicant. In that view of the matter, the case is made out for grant of bail. Hence, the following order.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant - GANPAT LAXMAN DHARADE be released on bail in connection with Crime No.389 of 2022 registered with Parner police station,

aaa/-

District Ahmednagar for the offences punishable under sections 363, 366, 376 (2)(n) of the Indian Penal Code, u/s 4, 6 of the Protection of Children from Sexual Offences Act, 2012 and u/s 9 of Prohibition of Child Marriage 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 not establish contact with the victim or any other person named in the charge-sheet.
 - c] The applicant shall attend each and every effective date before the trial court.
- iii. Bail application is accordingly disposed off.
- iv. Since Ms.M. G. Kasturkar is appointed through legal aid, her remuneration shall be paid as per Rules.

(S.G. CHAPALGAONKAR)
JUDGE

...