



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

BAIL APPLICATION NO.1898 OF 2023

PANKAJ DHANRAJ THAKUR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. H. P. Randhir, Advocate for the Applicant.
Mrs. P. J. Bharad, APP for Respondents-State.
Mr. P. B. Salunke, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 04th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.57/2023 registered with Bhusawal Taluka Police Station, Dist. Jalgaon for the offences punishable under Sections 376, 366-A, 452, 363, 354, 354-D, 506 of the Indian Penal Code and Sections 4, 8 and 12 of the POCSO Act, 2012.

2. The investigation was set in motion on the basis of information given by mother of the victim, who alleges that her daughter was having love affairs with the applicant and she was knowing about the same since six months. It is further alleged that in night of 16.04.2023 victim gone missing. The search was taken for her. Even applicant was found missing from his home. It was obvious that the applicant must have abducted the victim. Accordingly offence was registered under Section 363 of the Indian Penal Code. On 25.04.2023 the victim reported back to the police station. She was then referred to hospital for medical examination. She recorded history about her relationship with the applicant. Accordingly, she left the home in his company on

16.04.2023 and stayed at Railway Station Amalner, so also established physical relations for about three days. Accordingly, offence under Section 376 of the Indian Penal Code and POCSO were added. The applicant has been arrested on 13.06.2023. Since then, he is behind the bar. His prayer for grant of bail has been rejected by the Court of Sessions vide order dated 06.10.2023. Hence, this application.

3. The learned Advocate appearing for the applicant would submit that it is a case of love affair between the applicant and the victim. The victim left house in the company of the applicant on her volition. They stayed together at Railway Station Amalner. The victim has recorded history with the Medical Officer admitting her love affair with the applicant and consensual sexual relationships. He would, therefore, submit that further detention of the applicant would not be necessary.

4. The learned APP and the learned Advocate appearing for the complainant vehemently oppose the prayer for grant of bail. They would submit that the victim is a minor. Her consent is immaterial. In the statement recorded under Section 164 of the Criminal Procedure Code the victim has narrated that the applicant forced and induced her to accompany with him and established forcible physical relations. As such, they oppose the prayer for grant of bail.

5. Having considered submissions advanced, apparently the mother of the victim has recorded First Information Report dated 18.04.2023, wherein specific statement is made that the victim had love affair with the applicant and victim had left the home in the night of 16.04.2023 without informing anyone. Thereafter, when victim reported back to the police station, she

was referred to the medical examination, where she has given history that she was engaged with applicant on phone since last one year. Both of them ran away on 16.04.2023 and stayed at Railway Station Amalner. During stay, they established physical relations for three days. The report of the medical examination nowhere depicts the marks of any force being used. Although victim in her statement recorded under Section 164 of the Criminal Procedure Code is trying to make out different version, it is not in dispute that there was love affair between them.

6. The victim appears to be educated girl up to 12th standard and understands worldly affairs. When she left the home in the company of the applicant and stayed at Railway Station Amalner for more than three days, it can be gathered that relations between the applicant and victim were consensual in nature. In view of the aforesaid observations and considering the fact that investigation in the matter is complete and charge-sheet is filed, further detention of the application would not be necessary. At this stage, the learned APP informs that there are criminal antecedents against the applicant and possibility of tampering the evidence cannot be ruled out. The learned Advocate appearing for the applicant informs that the only offence registered against the applicant is in the year 2015 and it is not of similar nature. In that view of the matter, case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Pankaj Dhanraj Thakur, be released on bail in Crime No.57/2023 registered with Bhusawal Taluka Police Station, Dist. Jalgaon for the offences punishable under Sections

376, 366-A, 452, 363, 354, 354-D, 506 of the Indian Penal Code and Sections 4, 8 and 12 of the POCSO Act, 2012 on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:

- a. The applicant shall not tamper with the prosecution evidence in any manner.
- b. The applicant shall not enter village Sakegaon, Tal. Bhusawal or the place of residence of the victim till conclusion of trial.
- c. The applicant shall not attempt to establish contact with the victim or witnesses named in the charge-sheet.
- d. The applicant shall not indulged in similar offence.
- e. The applicant shall attend each and every effective date during the trial before the Special Court and co-operate for early disposal.

(iii) Application is disposed of.

(iv) Since Mr. P. B. Salunke, learned Advocate appearing for respondent no.2 is appointed through the Legal Aid, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE