

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

940 BAIL APPLICATION NO.1901 OF 2023

LAXMAN @ LAKHAN APPARAO WAYKULE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mrs. S.K. Doke & K.R. Kishor
APP for Respondents: Mr. K.S. Patil
Advocate for Respondent 2 : Mr. Rajesh Mewara
(appointed Through Legal Aid)

...
CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 10, 2023

...
PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.154 of 2023 registered with Paranda police station, District Osmanabad for the offences punishable under sections 376(3), 376(2)(j), 376(2)(i), 376(2)(n), 354-D, 341 of the Indian Penal Code and us 4,6,8 and 12 of the Protection of Children from Sexual Offences Act.

2. The investigation was set in motion on the basis of information given by victim herself, who is aged about 15 years and pursuing her education in 10th standard. She alleges that applicant-accused met her while she was proceeding to school and expressed that he loves to her. After, about four to five days in the month of March, 2023, he met her and took in field abutting to road and under the pretext of love established physical relations. He repeated similar episode on 29.03.2023. She did not disclose this incident to anyone, however, she

aaa/-

conceived pregnancy out of such relationship. Thereafter, complaint is lodged alleging rape by the applicant. Accordingly, crime No.154 of 2023 has been registered with Police Station Paranda, Dist. Osmanabad. Applicant has been arrested in pursuance of aforesaid offence on 22.06.2023. Since then he is behind bar.

3. Learned advocate appearing for the applicant submits that applicant is a young boy of about 23 years. There was love affair between applicant and victim. Physical relationship between them was contentious in nature. Even going by contents of FIR and statement of victim recorded under Section 164 of Code of Criminal Procedure, it is not the case of forcible sexual intercourse. He would submit that investigation in the matter is completed. Applicant is behind bar for more than four and half months. Further detention of applicant would not be necessary. Hence, she seeks release of applicant on bail.

4. Learned APP as well as learned Advocate appearing for victim vehemently opposes the prayer for grant of bail. They would submit that victim is hardly 15 years of age. She is a child within the meaning of section 2(d) of POCSO Act and her consent is immaterial. All offences incorporated in the charge-sheet would attract against applicant. As such, they opposed the prayer for grant of bail.

5. Considering the submissions advanced, it can be gathered that victim was pursuing her education in 10

standard. Sexual relations were maintained by the victim and applicant while the victim was attending her school. Two such incidents are attributed against the applicant during the month of March 2023. Pregnancy of the victim was detected in the month of June 2023. Statement of the victim is recorded under section 164 of the Criminal Procedure Code, where she repeats the similar version. Considering the episodes of similar incidence and age of the applicant, possibility of love affair cannot be ruled out. Pertinently, pregnancy of victim was aborted. DNA sample of the foetus was collected and sent for the analysis. Result of such analysis is inconclusive. In that view of the matter, although victim is minor and prima facie there are allegations regarding maintaining physical relationship by applicant with victim, his further detention need not be continued in the facts of the case. Hence, 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 - LAXMAN @ LAKHAN APPARAO WAYKULE be released on bail in connection with in connection with Crime No.154 of 2023 registered with Paranda police station, District Osmanabad for the offences punishable under sections 376(3), 376(2)(j), 376(2)(i), 376(2)(n), 354-D, 341 of the Indian Penal Code and u/s 4,6, 8 and 12 of the Protection of Children from Sexual Offences 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.
 - c] The applicant shall not make any attempt to contact with the victim or her family members or witnesses named in the charge-sheet.
- iii. Bail application is accordingly disposed off.
- iv. Since, Mr. Mewara learned counsel is appointed to represent respondent no.2, his remuneration be paid by the High Court Legal Services, Sub-Committee, Aurangabad as per rules.

(S.G. CHAPALGAONKAR)
JUDGE

...