

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

BAIL APPLICATION NO.2081 OF 2022

**HANUMANT SHIVAJI GUTTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Gaikwad Anil M.
APP for Respondent/State : Mr. S.P. Deshmukh
Advocate for Respondent No.2 : Mr. Rahul A Tambe (Appointed
Through Legal Aid)

...

CORAM : S.G. MEHARE, J.

DATED : JANUARY 20, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel appointed for the respondent no.2/victim.
2. The fact appears that the applicant and victim had love affair. On the day of the alleged incident, the victim was 16 years old. She eloped with the applicant and went to Pune. Her parents lodged the missing report. The police apprehended them and brought to the police station. Her family members and police from Mukhed were also there. However, Pune police set them free. Her first statement was recorded on 15.08.2022 and her statement under Section 164 of the Criminal Procedure Code was recorded on 20.08.2022. It appears that she was in the custody of her parents. Therefore, possibility of

tutoring her cannot be ruled out. There is no evidence that when she eloped, she resisted or attempted to flee away. They were in relationship for two years. However in those two years, there were no complaints. These circumstances have bearing on the case. What are the discrepancies as pointed out by the respective counsels, is undoubtedly the matter of evidence before the trial Court. Though it has been pointed out that the Sessions Court rejected the bail and observed that the trial is likely to open, the trial is yet not commenced. The victim was in advanced age. She was knowing the consequences of act she was doing. She never resisted the applicant during her stay with him at Pune.

3. Bearing the above facts in mind, the Court is of the view that the application deserves to be allowed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Hanumant Shivaji Gutte, be released on bail on executing PB. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.249 of 2022, registered at Mukhed Police Station, District Nanded for the offence punishable under Section 363, 366-A, 376, 376(2)(N) (J) of the Indian Penal Code and Section 4 and 6 of the Protection of Children From Sexual Offences Act, 2012 on the conditions that;

(3)

(a) The applicant shall not tamper with the prosecution witnesses.

(b) The applicant shall not contact the victim in any mode or manner, till conclusion of the trial.

(S.G. MEHARE, J.)