



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1978 OF 2023**

VIKAS DAULAT BARI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S. B. Surse, Advocate for the Applicant.
Mr. S. A. Gaikwad, APP for Respondents-State.
Mr. D. R. Dhumal, Advocate for Respondent No.2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th DECEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.536/2023 registered with MIDC Jalgaon Police Station, Dist. Jalgaon for the offences punishable under Sections 363, 376, 212 of the Indian Penal Code and Sections 4 and 17 of the POCSO Act.

2. The investigation was set in motion on the basis of the information given by father of the victim alleging that on 24.07.2023 his minor daughter left the home for going to the school, however, she did not return home. Although, search was taken at various places, her whereabouts could not be known. Accordingly, offence under Section 363 of the Indian Penal Code came to be registered against unknown culprit. It appears that, the statement of the victim is recorded on 08.08.2023 under Section 161 of the Criminal Procedure Code, wherein she states that she had love affair with the applicant. Her father was not in favour of their relationship. They decided to marry and accordingly they ran away from the home. Thereafter, they proceeded to Pachora. From there they went to Surat by private Travel Bus. They hired a room in the Laxman Nagar area and stayed together. During their stay, they had physical

relationship. Both of them were apprehended from Surat and then brought to the police station. On the basis of the aforesaid narration, the offence under Sections 376, 212 of the Indian Penal Code r/w. Section 4 and 17 of the POCSO Act came to be added. The applicant has been arrested on 08.08.2023. Since then, he is behind the bar.

3. Mr. Surse, learned Advocate appearing for the applicant would submit that it is a case of love affair between the victim and the applicant. He would submit that the applicant is aged about 18 years. The victim was 15 years of age. They left the home with intention to marry. The victim stayed with the applicant at Surat in a rented premise, where they had sexual intercourse. He would, therefore, submit that this is a fit case for grant of bail.

4. The learned APP as well as the learned Advocate appearing for the informant oppose the prayer for grant of bail. They would submit that the victim is a minor girl aged about 15 years. Her consent is immaterial. The medical examination shows there was sexual assault on the victim, which attracts penalty for the offences as alleged.

5. Having considered submissions advanced, it is apparent that the victim was taking education in 10th standard and she understands worldly affairs. The statement of the victim recorded under Section 161 of the Criminal Procedure Code clearly suggests that she had love affairs with the applicant and she left the home on her volition with intention to marry with the applicant. Accordingly they traveled to Jalgaon and then to Surat where they stayed as husband and wife in rented premise till police apprehended them. The victim was subjected to medical examination. She narrated history wherein she re-confirms her

love affair with the applicant since last six months and the fact that she had flee away to Surat in the company of the applicant with intention to marry and stayed with him in the rented premise. Considering the aforesaid scenario, further detention of the applicant is not necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Vikas S/o Daulat Bari, be released on bail in Crime No.536/2023 registered with MIDC Jalgaon Police Station, Dist. Jalgaon for the offences punishable under Sections 363, 376, 212 of the Indian Penal Code and Sections 4 and 17 of the POCSO Act 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 attend each and every date before the Sessions Court during the trial and shall co-operate for early disposal of the case.
- (iii) Application is disposed of.
- (iv) Since Mr. D. R. Dhumal, learned Advocate is appointed through the panel of 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