



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

BAIL APPLICATION NO. 2046 OF 2023

CHAITANYA RAJEBHAU GHODKE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N. B. Narwade
APP for Respondents : Mrs. Pratibha J. Bharad
Advocate for Respondent No.02 : Adv. Ajaykumar P. Jadhav
h/f for Adv. Yogesh Bobade

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: 22nd December, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.0238 of 2023 registered with police station, Washi District Osmanabad for the offences punishable under Sections 363, 366(a), 376(2)(n), 376(3) of the Indian Penal Code and under Section 4, 8, 17 of Protection of Children from Sexual Offence Act, 2012.

2. The investigation was set in motion on the basis of the complaint given by father of the victim who states that his daughter is pursuing her education in 11th standard and goes to college. He noticed that she is frequently in contact with applicant and developed love-affair with him. Considering her age, she was asked to discontinue such relation. However on 31.07.2023 victim left home without informing anyone. In spite of efforts to find out her whereabouts, she could not be located. Applicant was also missing from his home. Accordingly it was suspected that applicant might have induced victim and they must have fled away together.

grt/-

On 17.08.2023 the police caught hold of victim and applicant in Khed Shivapur area. Her statement is recorded, wherein, she categorically states that she was in relationship with applicant. Her family members were against such relationship, therefore she left home on 31.07.2023 along with applicant. They went together towards Pune where applicant's sister resides. However she refused to entertain them. Thereafter, they stayed together in a rented room in Khed Shivapur area till they were traced by the police. Medical examination of victim is conducted. She did not assert about physical relationship in the history given to medical officer. No remark of physical violence could be seen. On 19.8.2023 statement of victim came to be recorded under Section 164 of Code of Criminal Procedure, wherein she repeats similar version and specifically states that during her stay with applicant they had no physical relations.

3. Mr. Narwade learned advocate appearing for the applicant would submit that considering contents of FIR & statement of victim it can be gathered that there was love affair between applicant and victim. She left home on her own volition, traveled with applicant at various places. She has age of understanding. Further she is college going girl. Only because family members of victim are against relationship applicant is falsely implicated in offence.

4. Learned A.P.P. so also learned Advocate appearing for the complainant strongly opposes the prayer for grant of bail. They would point out that victim was aged about fifteen years and ten months when she was kidnapped. Applicant is aged about 23 years. In statement of victim dated 17.08.2023 recorded under section 161 of Code of Criminal Procedure she has specifically mentioned that applicant maintained physical relations with her

grt/-

during their stay of two days in a rented room. Therefore they urges to reject prayer for grant of bail.

5. Having considered the submissions advanced, it is apparent that the victim had love affair with applicant. Both of them decided to flee away from home. Accordingly, on 31.01.2023 victim along with applicant left home without intimating her family members. They traveled together, stayed in rented premises. Although allegations are made regarding offence under Section 376 and POCSO Act, 2012 in the statement of victim recorded under Section 164 of Code of Criminal Procedure no assertions regarding physical assault or relationship find place. Medical examination report do not depict signs of any physical relation or sexual assault. In a history given before Medical Officer victim does not state about sexual assault or physical relationship.

6. Taking over all survey of material available on record and fact that investigation in the matter is complete and charge-sheet is filed, further detention of applicant would not be necessary. Hence, case is made out for grant of bail. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant – Chaitanya S/o. Rajabhau Ghodke be released on bail in connection with Crime No.0238 of 2023 registered with police station, Washi District Osmanabad for the offences punishable under Sections 363, 366(a), 376(2)(n), 376(3) of the Indian Penal Code and under Section 4, 8, 17 of Protection of Children from Sexual Offence Act, 2012, on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty

grt/-

Thousand), with one solvent surety in like amount, on the following conditions :-

- 1] The applicant shall not tamper the prosecution evidence.
- 2] The applicant shall attend each and every effective date before the trial court.
- 3] The applicant shall not enter village Anjansonda, Tq. Bhoom, Dist. Osmanabad till conclusion of trial.
- 4] Since Mr. Apparao Yenegure, Advocate is appointed through Legal Aid Committee, his remuneration be paid as per Rules.

iii. Bail application is accordingly disposed off.

(S.G.CHAPALGAONKAR)
JUDGE.

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