

Versus

The State of Maharashtra and another ... Respondents

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Mr. M.H. Mulla for the Applicants.
Mr. P.H. Gaikwad Patil, APP for the State.
Mr. Vasim Siddiqui for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATED : 15 MARCH 2023

P.C. :-

This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicants came to be arrested in Crime No. 109 of 2022 registered at Pali Police Station, Raigad for the offences punishable under Sections 376(2), 376(2)(J), 376(2)(K) of Indian Penal Code, Sections 4, 6, 10 of the Protection of Children from Sexual Offences Act, 2012 and Sections 10, 11 of the Prohibition of Child Marriages Act, 2006.

3. I have heard the learned Counsel for the applicants and the learned APP for the State.

4. The victim is the wife of the applicant No.1. The applicant Nos.2 and 3 are father-in-law and father of the victim respectively. They belong to tribal community. As the victim was pregnant, she was admitted in KMC Hospital at Khopoli for delivery. As the age of the victim was found to be less than 18 years by the hospital authorities, the information was given to the police station. Pursuant to the said information, crime in question came to be registered.

5. I have perused the statement of victim. The victim was more than 15 years of age on the date of marriage. Prima-facie, considering the facts and circumstances of the case, the only offences under the Prohibition of Child Marriages Act would attract in the present case. The applicants are in jail for more than five months. Considering the overall facts and circumstances of the case, I am inclined to release the applicants on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant No.1 - Dama Soma Hirave, applicant No.2 - Soma Lahoo Hirave and applicant No.3 - Ganpat Hari Katware be released on bail in Crime No. 109 of 2022 registered at Pali Police Station, Raigad for the offences punishable under Sections 376(2), 376(2)(J), 376(2)(K) of Indian Penal Code, Sections 4, 6, 10 of the Protection of Children from Sexual Offences Act, 2012 and Sections 10, 11 of the Prohibition of Child Marriages Act, 2006, on furnishing P.R. Bond in the sum of Rs.15,000/- each with one surety in the like amount.

(N.R. BORKAR, J.)