



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 171 OF 2024

Rahul Ashok Thombre .. Applicant
Age. 22 years, Occ. Education,
R/o. Davargaon Walsa,
Tq. Bhokardan, Dist. Aurangabad.

Versus

1. The State of Maharashtra .. Respondents
through Police Inspector
Bhokardan Police Station,
Bhokardan, Tq. Bhokardan,
Dist. Jalna.
2. XYZ

Mr.PP. More, Advocate for the applicant.
Mr.S.A. Gaikwad, APP for the respondent/State.
Ms.Pooja K. Apache, Advocate for respondent No.2.

CORAM : SANJAY A. DESHMUKH, J.
DATED : 12.02.2024

PC :-

01. This is an application for grant of bail under section 439 Cr.PC.
The applicant is arrested in Crime No.626 of 2023 registered with Bhokardan
Police Station, Tq. Bhokardan, Dist. Jalna for the offences punishable under
sections 354(d), 376, 552, 506 of the Indian Penal Code and Sections 4,6,8,17
and 12 of the Protection of Children from Sexual Offences Act, 2012.

02. It is averred in the report of the victim girl of 16 years that the applicant put to her the proposal of love to which she denied. That time the applicant threatened her that he will commit suicide. Therefore, she was talking with him. The applicant went to visit her in the front house. He snapped her photographs and threatened her that he will viral those photographs. Thereafter, one Nanda Sanjay Sadare called her in her house and told her that the applicant is a good boy and requested her to have conversation with him. That time the applicant put proposal of marriage to her to which she refused. It is further averred in the report that in the month of July, 2023, when the victim girl was alone in the house, the applicant went to her house. The victim girl ran away to the back side room. However, the applicant forcefully committed sexual intercourse there. That time he threatened that he will eliminate her if she tells that incident to anybody. He also threatened that he will cause trouble to her parents. Therefore, she could not tell that fact to anybody. Thereafter, the applicant pressurized her to run away with him for performing marriage. Therefore, the victim girl stated that fact to her parents. They went to visit house of the applicant. That time he threatened to kill them. Therefore, she lodged the report against the

applicant.

03. The learned Advocate for the applicant submitted that it is case of love affair. The victim girl is more than 16 years old and the age of understanding. She is now at Remand Home and she is not willing to go back to her parents house. The applicant has roots in the society and on instructions he submits that the applicant is willing to perform marriage as per wish of the victim girl after she becomes 18 years of age within some months. He, therefore, prayed for bail.

04. The learned APP for the respondent/State opposed the application. The learned Advocate appointed for respondent No.2 also strongly opposed the application and pointed out incident that took place in the month of July, 2023. It is submitted that the applicant is prosecuted for a serious case. He will certainly pressurize the victim girl and her parents, if he is released on bail. Considering serious nature of the case, it is lastly prayed to reject the application.

05. Perused the FIR. The learned Advocate for the applicant has

placed reliance on the judgment in the case of **Sunil Mahadev Patil Vs. State of Maharashtra, reported in 2016 (3) Bom.C.R. (Cri) 435.** Para No.11 of the judgment reads as under :-

“11. Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sects with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers have considered the age of 15 as a age of consent when the marriage is performed. Taking into consideration this background, the trial Judge has to pass an order of bail in such cases.”

06. Practically the investigation is over. The trial will take long period. The applicant has roots in the society. He has no criminal antecedents. He will not flee away from the trial. His presence can be secured. Considering all these aspects, the application deserves to be allowed on certain conditions.

07. Therefore, the application is allowed. The applicant be released

on bail on execution of PR bond of Rs.25,000/- (Rupees Twenty Five Thousand) with solvent surety in like amount on following conditions:-

(a) The applicant shall not pressurize the prosecution witness and tamper the evidence.

(b) The applicant shall not enter into village Davargaon Walsa, Tq. Bhokardan, Dist. Jalna till conclusion of the Trial.

08. Fees of learned Advocate appointed for respondent No.2 shall be paid by High Court Legal Services Sub-Committee, Aurangabad as per the rule and schedule.

09. If the marriage is not performed by this applicant with the victim girl in future, the parents of the victim girl are at liberty to pray for cancellation of bail.

[SANJAY A. DESHMUKH, J.]