



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 BAIL APPLICATION NO. 181 OF 2024

Sayyad Jafar Sayyad Shabbir

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. XYZ

..RESPONDENTS

Advocate for Applicant : Mr. Bhosale Mahesh Kalidas

APP for Respondent/State : Mr.Satish A. Gaikwad

Advocate for Respondent No.2 : Ms. Priyanka Shinde (appointed)

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 23rd FEBRUARY, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No. 407 of 2023 registered with Nanalpeth Police Station, Parbhani, for the offences punishable under Sections 376, 376(2)(3), 327, 342 of the Indian Penal Code and under sections 4 and 17 of the Protection of Children from Sexual Offences Act and under sections 9, 10 and 11 of the Prohibition of Child Marriage Act.

2. It is averred in the report by the victim child that she was sold by the applicant and co-accused and even though she was child

of 16 years, her marriage was forcibly performed with one of the co-accused. She cohabited for 13 days. Thereafter, quarrel took place on 30.09.2023, and therefore, she was sent back to Parbhani along with her brother-in-law to the house of Raju Sawale. She was left there. At that place her mother was called and her husband said that he do not like this informant. Co-accused Raju Sawale then said that her husband's marriage can be performed with some other girl. One divorce deed was prepared on bond paper. Her signatures were obtained forcibly on it. Her ornaments were taken away by Jaishree. Then informant was brought to her mother and she was confined there. Thereafter, the informant dialed phone no.112 at about 9.30 hours on 01.10.2023. Thereafter, the police came there and she was brought to the Police Station and her statement was recorded by Child Welfare Committee, Parbhani. Her medical examination was conducted. After the medical examination report was submitted and she was found between 15 to 16 years old.

3. The learned advocate for the applicant submitted that some of the co-accused are released on bail. Mother of the informant is also released on bail by this Court. The applicant has roots in the society. The applicant has no criminal antecedents. His role is not specified in the charge-sheet. It is lastly prayed to allow the application.

4. The learned APP for the State strongly opposed the application and pointed out the statements of witnesses. The learned advocate appointed for representing the cause of respondent no.2 strongly opposed the application and pointed out that the applicant is involved in this crime. Considering serious nature of the crime, it is lastly prayed to reject the application.

5. Perused the charge-sheet, statements of the witnesses and the order passed by this Court granting facility of pre-arrest bail to some of the co-accused.

6. From the charge-sheet it appears that main accused Raju Sawale is beneficiary of the amount. The applicant once went with him that is stated by one of the witness, who runs Marriage Bureau, that time main accused Raju said that they will provide such girls for marriage.

7. The applicant has no criminal antecedents. He has roots in the society. The trial would take long period. Custody of the applicant is not necessary. Considering the fact that some of the accused are released on bail and fact that nothing is seized from this applicant as well as trial would take long period, the application deserves to be allowed on certain conditions. Hence, the following order:-

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 407 of 2023 registered with Nanalpeth Police Station, Parbhani, for the offences punishable under Sections 376, 376(2)(3), 327, 342 of the Indian Penal Code and under sections 4 and 17 of the Protection of Children from Sexual Offences Act and under sections 9, 10 and 11 of the Prohibition of Child Marriage Act, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution witnesses in any manner.
 - b) The applicant shall not contact with the family members of the victim girl including her parents and other relatives.
- III. If the applicant commits breach of above conditions, the trial Court is at liberty to proceed further for cancellation of bail of the applicant.
- IV. Fees of Ms.Priyanka Shinde, learned advocate appointed to represent the cause of respondent no.2 be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per the rules and schedule.

(SANJAY A. DESHMUKH, J.)