



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 BAIL APPLICATION NO. 186 OF 2024

Pandharinath Gajanan Jadhav

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. The Investigating Officer
3. XYZ

..RESPONDENTS

...
Advocate for Applicant : Mr. Dhananjay M. Shinde
APP for Respondent/State : Mrs.Pratibha J. Bharad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 20th FEBRUARY, 2024.

PER COURT :-

1 Respondent No.3 is duly served, however, none appears for her. Therefore, Mr.Sagar Mahale, learned advocate is appointed to represent cause of respondent no.3.

2. This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.292 of 2022, registered with Police Station, Hingoli (Rural), Tq. & Dist. Hingoli, for the offences punishable under sections 363, 376(2)(N) of the Indian Penal Code along with Sections 4 and 8 of the Protection of Children from Sexual Offences Act and sections 3(1)(W)(I) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act.

3 It is averred in the report that the applicant run away with the daughter of the informant, who was 16 years and 3 months old and they have had sexual intercourse. Now she has begotten girl child of six months.

4. The learned advocate for the applicant submitted that the applicant is behind bars since May, 2023. He had already performed the marriage with the prosecutrix and considering all these aspects, they are going to perform the legal marriage as soon as prosecutrix becomes 18 years old. He, therefore, prayed to grant bail.

5. The learned APP strongly opposed the application. Mr.Mahale, learned appointed advocate for respondent no.3 also strongly opposed the application and pointed out that the applicant is involved in serious crime for the offences punishable under sections 363, 376(2)(N) of the Indian Penal Code along with Sections 4 and 8 of the Protection of Children from Sexual Offences Act and sections 3(1)(W)(I) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is lastly prayed to reject the application.

6. Perused the charge-sheet and statements of the

witnesses as well as report of medical examination of the prosecutrix. The prosecutrix has delivered girl child at the time of lodging of the report. They are likely to perform marriage. In the order of learned trial Court, it is observed that the informant and his daughter-prosecutrix appeared through the advocate and gave no objection for granting bail. The statements of the witnesses are recorded. Trial would take long period. Presence of the applicant-accused can be secured for the trial. Considering all these aspects and possibility of performance of marriage of this applicant with the prosecutrix, the application deserves to be allowed on certain conditions. Hence the following order :-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.292 of 2022, registered with Police Station, Hingoli (Rural), Tq. & Dist. Hingoli, for the offences punishable under sections 363, 376(2) (N) of the Indian Penal Code along with Sections 4 and 8 of the Protection of Children from Sexual Offences Act and sections 3(1)(W)(I) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, be released on bail on furnishing personal bond of Rs.15,000/- with surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the witnesses and tamper with the prosecution evidence in any manner.

4. Fees of Mr.Sagar Mahale, learned advocate appointed to represent the cause of respondent no.3, be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per rules.

(SANJAY A. DESHMUKH, J.)

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