



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

ANTICIPATORY BAIL APPLICATION NO. 1939 OF 2023

MAHADEV APPA @ DATTATRAYA GHALAME
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Surendra V. Suryawanshi, Advocate for Applicant
Mr. S.B. Jadhav, APP for Respondent No.1 – State
Ms. Renuka Ghule Palve, Advocate for Respondent No.2 (Appointed)

...
ANTICIPATORY BAIL APPLICATION NO. 198 OF 2024

JAYSHREE RAMESH BHOSALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Pramod C. Mayure, Advocate for Applicant
Mr. S.B. Jadhav, APP for Respondent Nos.1 & 2 – State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th FEBRUARY, 2024

PER COURT :

1. Applicants apprehend arrest in C.R. No.407/2023, registered with Nanalapeth Police Station, Parbhani, for offences punishable under Sections 376, 327, 342, 376(2)(3) of the Indian Penal Code, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006

2. Minor victim lodged the report alleging that she along with her parents and grandmother resides in a rented house. On 07/09/2023 Raju Devrao Sawale who was familiar with her mother

brought her near one medical store in order to solemnize her marriage with other boy. On that day, bridegroom namely Mahadev Appa Ghalame, his parents, brother and sister and brother-in-law came there. Thereafter in the presence of informant's mother, Raju Sawale, Jayshree, Kadam Sir, Jafar Bhai and Raju Sawale's sister Asha in the room of Raju Sawale on the upper floor of medical store, solemnized marriage of victim with applicant Mahadev Ghalame. Raju Sawale had taken Rs.3 Lakhs from applicant Mahadev for solemnizing her marriage with applicant Mahadev. Thereafter, she went to her in-laws' house. Her husband gave her anklets, ring of toe, two pair of *Mangalsutra*, ear ring, etc. in marriage. Thereafter she was residing in her in-laws' house and her physical relation with her husband also took place as wife and husband and she resided in her matrimonial house for 13 days. There was no harassment to her in her in-laws house. All of a sudden quarrel took place between her and her husband and because of that on 30/09/2023, her husband sent her to Parbhani along with her brother-in-law, wife of brother-in-law and other persons, to the house of Raju Sawale and they left informant to the house of Raju Sawale. At that place applicant Mahadev called informant's mother and he stated to Raju Sawale that he does not like informant. He further asked Raju Sawale to solemnize his marriage with some another girl. Thereafter Raju Sawale and Mahadev Ghalame went out of the house and he came back with one bond paper which was already prepared, in which the

divorce deed was written, and signature of informant was forcibly obtained on it. Thereafter, applicant Mahadev and other persons went out of the house. However, thereafter, applicant Jayshreebai who was known to informant forcibly removed all the ornaments which were given to her in marriage from the body of informant. She also abused her mother. Thereafter Raju Sawale brought her and her mother in the room at upper floor of medical store and confined them in the said room. Informant was having fear in her mind and therefore, on 01/10/2023 she dialed 112 phone number and at 09:30 Hrs. police came there and they brought informant to police station and recorded her statement in front of Child Welfare Committee, who directed for her medical examination in order to find out her age. After medical examination the report was submitted on 04/10/2023 stating that she is aged between 15 to 16 years.

3. Heard learned APP for respondents/State, learned advocates for applicants and learned advocate for informant. Perused the investigation papers.

4. Total 12 persons are made accused in present crime. Allegation against applicant Mahadev Ghalame is that he has performed marriage with minor victim. It is the case of applicant that his marriage was settled through marriage bureau namely Sakhi Vivah Manch Vadhu Var Suchak Kendra. At that time, said

marriage bureau has shown xerox copy of Aadhar Card of victim wherein her date of birth was mentioned as 04/07/2004. Therefore, applicant and his family members had no knowledge that victim is minor. It is further contention of applicant that he has borne all the marriage expenses to the tune of Rs.3 lakhs and it was represented to him that victim was 19 years old. Applicant has already given customary divorce to victim, on bond paper and said original bond paper is already handed over to investigating officer.

5. Medical examination report of victim shows that her approximate age is between 16 to 17 years. Learned advocate for applicant is right in placing reliance on the exception of Section 375 that, *“Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape”*

6. Considering these aspects and as nothing is to be recovered from applicant Mahadev Ghalame, in Anticipatory Bail Application No.1939/2023, and as other accused persons are already granted anticipatory bail, pre-trial custodial detention of applicant in the facts of present case is not necessary.

7. So far as applicant Jayshree Ramesh Bhosale, in Anticipatory Bail Application No.198/2024, is concerned, it is alleged by victim that her gold ornaments were taken away by present applicant. During the course of investigation, gold ornaments

allegedly taken by applicant Jayshree are recovered. Investigation is complete and charge-sheet is already filed. Her pre-trial custodial detention is, therefore, not necessary, as nothing is to be recovered from her.

8. In the result, both the applications are allowed by confirming interim protection granted to applicants by orders dated 01/12/2023 and 14/02/2024.

9. Fees of learned advocate appointed to represent informant/respondent No.2 be paid by the High Court Legal Services, Sub-Committee, Aurangabad, as per the schedule, within a period of four weeks.

(NITIN B. SURYAWANSHI, J.)