



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

969 BAIL APPLICATION NO. 293 OF 2024

Tulshiram @ Amol Bhagwat Khemnar

..APPLICANT

-VERSUS-

1. The State of Maharashtra
2. XYZ

..RESPONDENTS

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Advocate for Applicant : Mr. Wakale Vijay Shivaji
APP for Respondent/State : Mrs.Pratibha J. Bharad
Advocate to assisting the PP : Ms.Aishwara C. Deshpande

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 9th MAY, 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.0982 of 2023 registered with Rahuri Police Station, Dist. Ahmednagar, for the offences punishable under sections 363, 366, 376(3), 376(2)(n) of the Indian Penal Code and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. It is averred in the report and the statement of prosecutrix child of 14 years old that the applicant eloped her and she went with

him on her own and she has no any complaint against him, which is also recorded in the statement of prosecutrix recorded before the learned Judicial Magistrate, First Class, Rahuri. She has stated that during that period there was sexual intercourse between them at Sangamner, Pune, Nashik, Gangapur, Samnapur and they resided by taking one room on rent at Samnapur.

3. The learned advocate for the applicant submitted that the applicant has roots in the society. There is no criminal force. It is pure case of love. The applicant is behind bar since 30.09.2023. 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. He lastly prayed to allow the application.

4. The learned APP for the respondent-State and learned advocate appointed to represent the cause of respondent no.2 strongly opposed the application and submitted that the applicant is involved in serious crime. The applicant has assured for marriage of 14 years child and took her at various places and committed aggravated sexual assault on her. Considering serious nature of crime, it is lastly prayed to reject the application.

5. Perused the charge-sheet, particularly the report and

statement of victim child along with report of her medical examination. There were love affair between the applicant and prosecutrix. No any criminal force is used. Therefore, in view of the law laid down in the cases of ***Vishal S/o Omprakash Verma Vs. The State of Maharashtra and anr. Reported in 2021 All MR (Cri) 187 and Nitin Damodar Dhaberao Vs. State of Maharashtra and another reported in 2024(2)ABR (Cri.) 503*** and the fact that the applicant has roots in the society, he will not flee away from the trial, trial would take long period, the applicant deserves to be released on bail on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No.0982 of 2023 registered with Rahuri Police Station, Dist. Ahmednagar, for the offences punishable under sections 363, 366, 376(3), 376(2)(n) of the Indian Penal Code and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act be released on bail on furnishing personal bond of Rs.25,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence in any manner.
 - b) The applicant shall not enter in village Gautumbeakhada, Tq. Rahuri, Dist. Ahmednagar, till the conclusion of the trial.

III. If any breach of the above conditions is noticed by the trial Court, it is at liberty to cancel the bail granted to this applicant without further reference to this Court.

IV. Fees of Ms.Aishwara C. Deshpande, learned advocate appointed to represent the cause of respondent no.2 shall be paid through the High Court Legal Services Sub-Committee, Aurangabad as per rules and schedule.

(SANJAY A. DESHMUKH, J.)

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