



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 BAIL APPLICATION NO. 425 OF 2024

ARUN ANANDA BAILKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents-State : Ms. S. S. Joshi.
Advocate for Respondent No.3 : Mr. I. K. Wagh (Appointed).

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CORAM : S. G. MEHARE, J.
DATE : 18.06.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondents-State and learned counsel appointed for respondent No.3.

2. The applicant seeks bail in Crime No.477 of 2023, registered with Degloor Police Station, District Nanded, for the offences punishable under Section 376, 376(2)(N), 354-A, 354-D, 323, 384, 504 read with Section 34 of the IPC and Sections 4, 8, and 12 of the POCSO Act.

3. The facts of the case reveals that it was a case of love affair. The applicant was residing in front of the house of the victim. The allegations reveal that the family members of the victim were paying money and helping him for medical

treatment. The mother of victim herself gave her *Mangalsutra* for paying medical expenses. The victim had stolen golden ornaments from the house and gave it to the applicant. It seems that something happened which is not coming before the Court that broke their relationship.

4. Learned APP and the learned counsel appointed for the victim have vehemently argued that the applicant took advantage of her teenage and did forceful sex with her without her consent. Considering her age, her consent is immaterial.

5. Learned APP relied on the case of *X (Minor) Vs. The State of Jharkhand and another ; 2022 LiveLaw (SC) 194*. Learned counsel for the victim has referred to the chatting of applicant and the victim on Instagram. He tried to argue that the applicant was abusing her. They argued that the matter is serious. The offence of forceful sex with assault has been committed. The applicant may tamper with the prosecution witnesses.

6. Perusal of the papers reveals that the applicant and the victim had a long time relationship. The applicant has also good relationship with the family of victim. The applicant is 19 years old. It is a clearcut case of consensual relationship. Victim was above 15 years and able to take an appropriate

decision. She never complained against the applicant till lodging the report that he forcefully did sex with her. It is a clear case of love affair. Considering the facts of the case of X (Minor) (supra) are different from the facts of this case. The applicant was only 19 years old. The investigation has been completed. The facts of the case and the manner in which the dispute arose, this is a fit case to grant bail on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **ARUN ANANDA BAILKAR** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall not contact the victim and her family till conclusion of the trial.
 - (c) He shall not enter in village where the victim resides.
 - (d) He shall attend the trial on each and every date.

- (iii) The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to the learned counsel Mr. Wagh appointed for respondent No.3, as per the schedule.

(S. G. MEHARE, J.)

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vmk/-