



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.881 OF 2024

Mohan Sopan Kamble
Age: 40 years, Occu: Labour,
R/o: Brahmgaoon, Tq. Majalgaon,
Dist. Beed Mob. No.8855920483 ... Petitioner

VERSUS

State of Maharashtra
Through its Secretary of Home
Department Mantralaya, Mumbai and Ors. ... Respondents

....
Mr. Subhash S. Nade, Advocate for the Petitioner
Mr. A. R. Kale, APP for Respondents – State
....

**CORAM : R. G. AVACHAT &
NEERAJ P. DHOTE, JJ.**

DATE : 10.06.2024

PER COURT :

1. This is the Writ Petition for issuance of Writ in the nature of Habeas Corpus by the father of a minor girl. Following are the prayers in the Writ Petition:

“A. By issuing writ of habeas corpus under Article 226 of the Constitution of India or any other appropriate writ, like in nature this Hon’ble Court may kindly direct the respondents that they should bring the minor daughter of petitioner and handover the physical custody of the minor daughter of present petitioner.

B. By issuing writ of mandamus under Article 226 of the Constitution of India or any other appropriate writ, like in nature this Hon’ble Court may kindly direct the respondents proper investigate the Crime No.71/2024 dated 04.03.2024 registered with Majalgaon (City) Dist. Beed for offence punishable u/sec. 363 of I.P.C. and submit the report before this Hon’ble Court.

C. Any other appropriate relief in favour of the petitioner may kindly be granted.”

2. According to the Petitioner, his daughter aged sixteen (16) years and eight (8) months was missing from 03/03/2024. According to the Petitioner, though he approached the concerned Police, no effective steps were taken by the concerned Police Station. Hence, this Writ Petition.

3. It is submitted by the learned Advocate for the Petitioner that the Petitioner's daughter was found on 05/06/2024 in the custody of the person by name Rahul Babasaheb Chumble aged 25 years in Beed District. He submits that the concerned Police has brought the girl before the Court and the Petitioner and his wife are also present in the Court.

4. Considering the nature of Petition, the Petition is taken up in the Chamber.

5. While interacting with the Petitioner's daughter in the presence of the learned Advocate for the Petitioner, learned APP and the Policemen, she informed her date of birth as 03/07/2007. There is no dispute that she is minor aged sixteen (16) years, eight (8) months. She submitted that she was in love with the said person, namely, Rahul Babasaheb Chumble and she eloped with him from her parent's house and they cohabited like husband and wife for three (03) months. She submitted that she want to stay with him and does not want to stay with her parents nor in the Children Home. She repeatedly urged to allow her to stay with the said person. She with all vehemence submitted that she wants that the said person be released from the custody. She expressed her intense desire to represent before the learned Remand / Bail Court in the said crime.

6. After interacting for sometime with the Petitioner's daughter, she eventually agreed to stay with her parents. While interacting

with her, it is noticed that she was of mature understanding. It is informed by the Policemen that the crime bearing No.71/2024 was registered with the Majalgaon Police Station for the offences punishable under Sections 366(a), 376(2)(n) of the Indian Penal Code, Sections 3 and 4 of the Protection of Children from Sexual Offences Act (POCSO), 2012 and Sections 3(1)(w)(i), 3(1)(r), 3(1)(s) and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the said person by name Rahul Babasaheb Chumble.

7. The Petitioner and his wife were also called. They submitted that they will keep the victim with them and take proper care of her.

8. In view of the above and considering the factual aspects as narrated by the victim, the victim is given in the custody of the Petitioner. It is needless to state that being the victim, she has legal right to appear or to be represented before the Remand / Bail Court. The concerned Police Station shall ensure that the Petitioner / victim is informed of Remand / Bail proceedings arising out of the aforesaid Crime. We expect that the Remand / Bail Court will consider and appreciate the remand / bail application of Rahul Babasaheb Chumble in the right earnest and pass necessary order. The learned APP submits that he will inform the Investigating Officer of the aforesaid aspects. The Investigating Officer to place the copy of this order before the Remand / Bail Court.

9. In light of above, the Writ Petition stands disposed of.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]