

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1085 OF 2024

Sonu @ Asefali Ajagarali Sayyad

VERSUS

The State Of Maharashtra And Others

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Advocate for Applicant : Mr. Malpani Mohit Rajendra

APP for Respondent/State : Ms. P.R. Bharaswadkar

Advocate for Respondent No.3 : Mr. Vaibhav D. Karande

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CORAM : S.G. MEHARE, J.

DATED : JULY 23, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim, who has filed an affidavit in favour of the applicant who had affair with the applicant. Her family members were opposing their affair. Hence, she eloped with him. The affidavit be taken on record.

2. A Crime bearing No. 682 of 2023 was registered with Vaijapur Police Station, District Aurangabad for the offence punishable under Sections 363, 376(2), 354-A of the Indian Penal Code, Sections 4, 6 & 8 of the Protection of Children From Sexual Offences Act and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. Learned APP contends that there were different proofs of the date of birth. In her birth certificate and school leaving certificate, two different dates are mentioned. She was minor at the time of the incident. Hence, her consent was immaterial.

4. The prosecution has school leaving certificate which mentions her date of birth as 05.01.2005. In view of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the school leaving certificate or matriculation certificate would prevail over the birth certificate maintained by the corporation or local government. The school leaving certificate would be considered to determine her age.

5. Considering the date of birth on the date of the incident, only seven days were remained to attend majority. Be that as it may, it is case of love affair. The victim is still with the applicant. She has categorically stated that her family members were opposing their relationship. Hence, she eloped with him. Considering her age, she seems able to take appropriate decision about her life. Nothing is to be recovered from the applicant. There is no propriety in keeping the applicant behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Sonu @ Asefali Ajagarali Sayyad, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;

(3)

- (a) The applicant shall not tamper with the prosecution witnesses and shall attend the trial on each and every date.
- (b) The applicant shall not cause any harm to the life of the victim till the conclusion of the trial.
- (c) The applicant shall not threat the relatives of the victim.

(S.G. MEHARE, J.)