



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

BAIL APPLICATION NO. 1223 OF 2024

LAKHAN PRALHAD BHAGAS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondents No.1 and 2 : Smt. P. V. Diggikar
Advocate for Respondent No.3 : Mr. Shriniwas Kulkarni
(Appointed Through Legal Aid)
...

CORAM : S. G. MEHARE, J.

DATE : 06-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondents No.1 and 2 and the learned counsel for respondent No.3.

2. The applicant seeks bail in C.R.No.72 of 2024 registered with Police Station Charthana, District Parbhani, for the offences punishable under Sections 363, 376(2)(n) of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 8, 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

3. It is an interesting case, a girl 14 years old forced the applicant to flee away. Her parents were not living happily. The applicant and the victim had good acquaintance. The applicant

was convincing the victim that she was minor and she should not force him. But she threatened him to cause threat to her life. In this peculiar circumstance, the applicant took the victim with him at another place. Her statement was very specific that soon after the report was lodged against the applicant, they appeared before police station. Considering her statement, it can be understood that her mental capacity was good to take appropriate decision. Probably, she may be victim of unhealthy atmosphere in her family and discord between her parents.

4. Though the learned A.P.P. for the State and the learned counsel for the victim have strongly opposed the application on the ground that victim was minor and she has been sexually assaulted, the Court has to consider the fact, particularly, mental capacity of the victim to take an appropriate decision. She seems to have taken the conscious decision to leave her parent's home. She had relationship with the applicant. Whether presumption under the POCSO Act applies to the case at hand, is the matter of appreciation of evidence on merit.

5. For the above reasons, the Court is of the view that further detention of the applicant would not serve the purpose. He deserves bail on certain conditions. Hence, the order :-

ORDER

i) The bail application is allowed.

- ii) Applicant – Lakhan Pralhad Bhagas be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
- (a) He should not contact the witnesses and the victim in any mode or manner till the conclusion of the trial.
 - (b) He should not threaten the victim and her relatives.
 - (c) He should attend the trial on each and every effective date.
 - (d) He should stay away from village Dagadchop, Taluka Jintur, District Parbhani, for two months from the date of his release.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fees to the learned counsel appointed for respondent No.3/victim, as per the schedule.

(S. G. MEHARE)
JUDGE