



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

920 BAIL APPLICATION NO. 1449 OF 2024

PANDURANG MOTIRAM WANKHEDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Jadhav Madhav K.

APP for Respondent/State : Mr.A.A.A. Khan

Advocate for Respondent no.2 : Mr. Londhe Shashikant Sakharam

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CORAM : S. G. MEHARE, J.

DATE : 18th October, 2024.

P.C.:

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and the learned counsel the victim.
2. The applicant seeks bail in Crime No.203 of 2024 registered with Kalamnuri Police station, for the offences punishable under sections 363, 366(A), 376(2)(i)(n), 376(3), 506 read with 34 of the Indian Penal Code and sections 4 and 12 of the Protection of Children from Sexual Offences Act.
3. The prosecution case in brief was that the victim was studying in 9th standard. On the day of the incident, nobody was in her home. However, her statement shows that she had relationship with the applicant for the last one year. He was insisting her to leave the village and marry him. He did sex with her on few occasions. On 29.04.2024, the applicant made a phone call to the victim and asked her when should they go away. She told her that when nobody would be there in

the home, they would go. On the next day, the applicant called her near a river. The applicant and his friend were present there with bike. Then the applicant took her and they went to Mumbai. On 01.05.2024, the police caught them and brought to the village.

4. The learned counsel for the applicant would submit that the victim was able to take conscious decision. The applicant never forced her. They had a love affair. The chargesheet has been filed. There is absolutely no evidence to make out offence punishable under section 376 of the Indian Penal Code. The statement of the victim does not reveal that there was sexual assault with her. He has no criminal antecedents. He is ready to cooperate with the investigation. Therefore, he deserves bail.

5. The learned APP and the learned counsel for the victim would submit that the applicant had trapped a small girl of 14 years. Both were in prohibitory degree. In their community, the applicant and the victim cannot be a husband and wife. The applicant is married having a baby child. He has matrimonial dispute. He has deliberately trapped the victim and fallen her prey to his sweet words and dream. He allured her. There is direct evidence of sexual assault. It is an immoral act of the applicant. He did not respect the relations between them. If he is granted bail, he may again trap the victim and flee away with her. The offence is apparently serious. Safety of the child is in danger. Hence, he may not be granted bail.

6. Perused the papers.

7. There is substantial evidence against the applicant. There was much age difference between the applicant and the victim. The victim was from a small village. The possibility of trapping the victim cannot be ruled out. Though, he was married, he took away the victim of 14 years old and did sex with her. One non-cognizable offence is also filed against unknown person who was threatening the victim and her mother for taking this case back. Considering the conduct of the applicant, there is a substance in the arguments of the learned APP and the learned counsel for the victim that there is danger to the safety of the victim. Considering the relationship between them and gravity of the offence, the application stands dismissed.

(S.G. MEHARE, J.)