



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

BAIL APPLICATION NO. 1693 OF 2024

RAMESH JAGHU TELE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Jitendra V. Patil
APP for Respondents No.1 and 2 : Mr. S. B. Pulkundwar
Advocate for Respondent No.3 : Ms. S. T. Kazi
(Appointed Through Legal Aid)

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

DATE : 17-10-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the State and the learned counsel for the victim.
2. The applicant seeks bail in C.R.No.186 of 2024 registered with Dharangaon Police Station, Taluka Dharangaon, District Jalgaon, for the offences punishable under Sections 376 and 363 of the Indian Penal Code and Sections 4, 5(L), 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
3. It has been alleged against the applicant that he eloped with the victim who was allegedly 16 years and 10 months old. They were residing as husband and wife. During the stay, they had sexual intercourse. The mother of the victim had lodged a report. Thereafter, both of them were arrested. However, the statement of the victim reveals that she had a love affair with the applicant, who is her close relative and a married man. Her statement

reveals that she voluntarily eloped with him.

4. The crucial question is, the prosecution does not have age proof of the victim as required under the Juvenile Justice (Care and Protection of Children) Act, 2015. There is neither a school admission certificate, the date of birth certificate from the local government and nor the ossification test report. The Gramsevak of Nimdale Village Panchayat, Nimdale, informed the police that there was no entry of the birth of the victim in the birth/death register. The investigating Officer issued a letter to the Headmaster, Zilla Parishad Primary School, Nimdale, contending himself that she was learning in the school till fourth standard in the year 2018, but his reply was not placed on record.

5. The core question comes before the Court is unless the age proof is placed on record, how POCSO Act would attract. There is a serious doubt about her minority. However, the prosecution claimed that at the time of incident, she was 16 years 10 months old. However, her age is a guess work. She may be major.

6. The applicant has a case that she was able to take the decision. However, no incident, as such, happened. She being a niece of the applicant, were acquainted to each other. There was some misconception between the family and in a fit of anger, the report was lodged.

7. The learned counsel for the applicant has argued that entire investigation is over. Hence, he may be granted bail.

8. The learned A.P.P. as well as the learned counsel for the victim were unable to satisfy the Court the exact age of the victim, which is a primary requirement to attract the provisions under the POCSO Act. If it is not so, it would be difficult to believe that the victim was a minor girl.

9. Considering the over all facts of the case and absence of age proof, it would be inappropriate to keep the applicant behind bar. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant - Ramesh Jaghu Tele 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 tamper with the prosecution witnesses.
 - (b) He should not contact the victim in any mode or manner till the conclusion of the trial.
 - (c) He should attend the trial on each and every effective dates.
- iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

**(S. G. MEHARE)
JUDGE**