

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1851 OF 2024

Satish Eknath Kakade

VERSUS

The State Of Maharashtra And Another

...

Advocate for Applicant : Mr. Wakale Vijay Shivaji

APP for Respondent/State : Mr. A.S. Shinde

Advocate for respondent no.2/Victim: Mr. N.S. More

...

CORAM : S.G. MEHARE, J.

DATED : OCTOBER 22, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.374 of 2024 registered with Mukundwadi Police Station, District Aurangabad for the offences punishable under Sections 64(2)(f), 64(2)(i), 64(2)(m), 65(1) of the Bharatiya Nyay Sanhita, 2023 and Sections 4, 6 and 8 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO Act' for short).
3. It is a case of its type that the applicant and victim are maternal and paternal brothers and sisters. The victim was 14 years old. Hence, their marriage was decided. However, before marriage, they get into relationship. Therefore, she was taken to the Ghati Hospital. It was revealed that she was pregnant of one and a half

months. Since she was a minor, her statement was recorded and on the basis of her age, the crime has been registered. The applicant was arrested.

4. The applicant came with a case that since they were in relationship and proposed to marry, he may be granted bail. The victim was also called in the Court by a notice. The counsel appeared for her through her father and filed an affidavit of her guardian father admitting the facts of their engagement. Therefore, he gave no objection for releasing the applicant as he has no grievance against him.

5. Learned APP opposed the application. He would submit that it is an atrocity against a minor child women. Therefore, merely no objection of the parents is immaterial. He would submit that if such applications are allowed on no objection by the parents, the very purpose of the POCSO Act would be frustrated.

6. Since the objection of the learned APP was forceful, the father of the victim was called. The Court asked him why did he engaged a minor daughter with the applicant. Surprisingly, he explained that his wife was suffering from heart disease and he is suffering from brain problem. They had apprehension of their untimely deaths. So, they thought that the future life of the daughter should not be in danger. Hence, they have decided to see the betterment of the victim girl in their lifetime. Unfortunately, his wife

has been recently died of the heart disease. They wanted to protect a daughter from the ill-eyes of the society. In those compelling circumstances, they decided the marriage of the applicant and victim. This may be a genuine ground and touching the societal structure of our country. The poverty is the biggest issue of our country. The reasons for deciding the marriage appears probable and with a good intent. Even the crime is registered, the applicant is ready to marry the victim after attaining her majority. These compelling circumstances needs to be considered. Hence, the applicant may be released on bail on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Satish Eknath Kakade, 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 ;
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) The applicant should not be in physical relationship with the victim till they legally married.

(4)

(c) The applicant should attend the police station as and when called on written notice by the investigation officer till filing the charge sheet.

(S.G. MEHARE, J.)