



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 ANTICIPATORY BAIL APPLICATION NO. 1651 OF 2023

Vikas Kailas Ghunavat

VERSUS

The State of Maharashtra and another

Advocates for Applicant : Mr. Kiran D. Jadhav, Vikram L. Bhangе with Mr. N.S. Kalyankar

APP for Respondent No.1: Mr. P.K. Lakhotiya

Advocate for Respondent No.2 : Mr. Ravindra C. Misal

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CORAM : SHIVKUMAR DIGE, J.

DATED : 25th JUNE, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with crime No.657 of 2023 registered with Ambad Police Station, district Jalna, for the offences punishable under sections 376(2)(n), 323 r.w. 34 of I.P.C., under Section 9, 10 and 11 of the Prohibition of Child Marriage Act, 2007 and under Sections 4, 5-L, 6, 12 and 17 of the Protection of Children from Sexual Offences Act.

2. It is the prosecution's case that at the time of marriage, the victim was 17 years old. The applicant and co-accused were aware that the victim is minor. In spite of this, the applicant had performed the marriage with the victim and had established physical relationship with her. Hence, the victim filed complaint against the applicant being husband and co-accused.

3. It is the contention of the learned counsel for the applicant that the applicant and the victim are from same caste. The marriage of the victim and the applicant is an arrange marriage. At the time of marriage of the applicant with the victim, the applicant was not aware about the age of the victim as the parents of the victim told the applicant and his family members that the victim is of marriageable age and on their say the applicant performed the marriage with the victim. There was no intention of the applicant to commit any offence. The custodial interrogation of the applicant is not required. Hence he requested to allow the application.

4. It is the contention of the learned APP that the applicant and the co-accused were aware that the victim was minor. In spite of that, the applicant performed the marriage with the victim. After the marriage, the applicant had established physical relations with the victim. The custodial interrogation of the applicant is required. Hence he requested to reject the application.

5. Learned counsel for respondent No.2 submits that appropriate order be passed.

6. I have heard all the learned counsel. Perused the F.I.R. and

the police papers produced on record. It appears from the police appears that the marriage between the applicant and victim was performed. It was an arrange marriage. The applicant and the victim are from same caste. At the time of filing of F.I.R. the victim was more than 17 years old. Considering the allegations against the applicant, his custodial interrogation is not required, as from the statements of witnesses produced on record it appears that the applicant was not aware about the age of the victim at the time of marriage. In view of the above, I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant in connection with crime No.657 of 2023 registered with Ambad Police Station, district Jalna, for the offences punishable under sections 376(2)(n), 323 r.w. 34 of I.P.C., under Section 9, 10 and 11 of the Prohibition of Child Marriage Act, 2007 and under Sections 4, 5-L, 6, 12 and 17 of the Protection of Children from Sexual Offences Act, the applicant be released on executing personal bond in the sum of Rs.15,000/- with one surety of the like amount, on the following conditions :-
 - (a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

(SHIVKUMAR DIGE, J.)