



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.2367 OF 2023**

Sayam S/o. Shahabuddin Kureshi,
Age: 19 years, Occ: Education,
R/o. 60, Juna Peth, Indore,
Madhya Pradesh.

..Applicant

Versus

The State of Maharashtra,
through Kopargaon Police Station,
District Ahmednagar.

..Respondents

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Mr. N. S. Ghanekar, Advocate for the Applicant.
Mr. V. M. Jaware, APP for Respondents-State.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 28th JUNE 2024.

PRONOUNCED ON : 03rd JULY 2024.

ORDER:-

1. The applicant seeks regular bail in connection with Crime No.331/2023 registered with Kopargaon Police Station, Dist. Ahmednagar for the offences punishable under Sections 376, 363, 354, 328, 295, 295-A, 298, 504, 506 r/w 34 of the Indian Penal Code.

2. The applicant has been arrested on 12.07.2023 in pursuance of the registration of the aforesaid crime. The victim aged about 20 years filed FIR alleging that she was in contact with the applicant through social media networking. She was trapped in love affair by the applicant. He visited her place on 21.05.2023 alongwith his friends and insisted her to accompany them to Madarsa at village Khadki. The applicant/accused had forcible sexual intercourse with her, snapped photographs and videographed her in his company and then took her to some

Maulana and made her to chant religious prayer for conversion to Islam. Consequently, the aforesaid crime was registered.

3. Mr. Ghanekar, learned Advocate appearing for the applicant submits that the applicant is behind the bar for almost one year. The victim is a major girl aged about 20 years and well-versed with the operation of social media and worldly affairs. He would submit that the exaggerated allegations are made to bring home guilt against the applicant. Since it is a case of interfaith marriage followed by love affair of young couple exaration is made. Mr. Ghanekar would submit that after registration of the offence, applicant was immediately arrested. His mobile phone was seized and sent to Forensic Laboratory. However, no objectionable material is found. The victim voluntarily accompanied the applicant, performed marriage and made afterthought allegations. By inviting attention of this Court to the call details between the victim and the applicant, particularly on the date of incident, he would submit that the victim continuously called applicant, which is inconsistent with the story of the prosecution. Mr. Ghanekar would submit that co-accused persons are already enlarged on bail. The applicant is ready to abide any condition as imposed by this Court. The trial is likely to take its own course and indefinite incarceration of the applicant need not be continued, particularly when there are no criminal antecedents to discredit the applicant.

4. Mr. Jaware, learned APP, however, strongly opposes the prayer for bail. He would submit that the applicant is resident of Madhya Pradesh. Systematically the victim was trapped using social media tools and emotionally blackmailed and then she was forced to convert into Islam and dragged to the so called marriage. On the basis of the photographs and videos, she was blackmailed and subjected to forcible sexual intercourse. The offences are

serious in nature. The release of the applicant may hamper the smooth trial.

5. Having considered submissions advanced, it appears that there are allegations of emotional blackmail and forcible sexual intercourse by the applicant against victim. However, the fact remains that the victim was aged about 20 years i.e. a major girl with sufficient education and understanding. Perusal of the contents of the FIR depicts that there was long standing relationship between the victim and the applicant and they were in contact with each other. The document shows that the victim had been to the place of the applicant at Indore and attended engagement function of common friend. The Call Detail Record between the applicant and the victim on the date of alleged incident shows that victim was aggressor and she called the applicant on most of the occasions. The main allegation in the FIR is that the victim was blackmailed using photographs and video while she was taken to the Maulana or forced to chant religious prayer. The investigation papers nowhere depicts that any such material alleged to have been used by applicant is recovered during the course of investigation. The mobile phone seized from the applicant was sent for forensic examination. The report of such examination also silent on crucial allegations.

6. Taking into account the overall material on record, case of the prosecution do not inspire confidence. The applicant appears to be the person aged about 19 years, whereas victim is aged about 20 years. There are no criminal antecedents to discredit the applicant. The applicant is behind the bar for almost one year. The trial is likely to take its own course. In that view of the matter, further detention of the applicant is not necessary. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Sayam S/o. Shahabuddin Kureshi be released on bail in Crime No.331/2023 registered with Kopargaon Police Station, Dist. Ahmednagar for the offences punishable under Sections 376, 363, 354, 328, 295, 295-A, 298, 504, 506 r/w 34 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) with one local surety for the same amount on following condition:
- a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall not establish contact with the victim or any other witnesses named in the charge-sheet.
 - c. The applicant shall attend each and every effective date before Sessions Court.
 - d. The applicant shall not enter Municipal limits of Kopargaon except for the purpose of attending the date fixed and proceeding before the Sessions Court.
 - e. The applicant shall time to time update his contact details and address with Kopargaon Police Station, District Ahmednagar.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE