



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

22 CRIMINAL WRIT PETITION NO.447 OF 2025

GANESH BALU MALKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. K.A. Pathade, Advocate h/f Mr. P.P. More, Advocate for petitioner

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 to 3

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CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 01st APRIL, 2025

ORDER :

1 Present petition has been filed for direction to respondents to produce a detained girl.

2 Heard learned Advocate for petitioner and learned APP for respondents, after she waives notice for them.

3 Learned Advocate for petitioner submits that the petitioner and girl were having love affair. The girl was major and they had performed marriage at Alandi Devachi, Tq. Khed, Dist. Pune on 28.03.2024. After that,

when they returned, the girl had given a statement before Police Inspector, Police Station, Mantha, Tq. Mantha, Dist. Jalna on 01.04.2024 that she has performed marriage with petitioner voluntarily and there is danger to her life as well as life of her husband from relatives from parents side. After the said statement was given voluntarily by the girl, she had resided with petitioner about 13 days in his house, however, thereafter parents and relatives of girl taken her forcibly from the custody of petitioner and they have not allowed the petitioner to meet and speak with girl. On the contrary, the girl then lodged report against petitioner on 13.04.2024. This is nothing but complaint by threatening and pressurizing the girl. The girl has been detained against her will and, therefore, the petitioner has approached this Court.

4 The first and the foremost fact to be noted is that the petitioner has tried to show that the girl was major. He has even fetched Birth Certificate from hospital where the girl was born and then the School Leaving Certificate of the girl showing her birth date as 21.03.2006. There is a certificate issued by one Mangal Karyalaya regarding performance of marriage as per Hindu Vedik rites. However, it is to be noted that First Information Report has been lodged for the offence punishable under Section 376, 376(2)(n), 354-D, 506 of the Indian Penal Code on 13.04.2024 vide

Crime No.182/2024 with Police Station, Mantha, Dist. Jalna after the girl had filed the same. Now, it is disputed question of fact, when it is presumed right now that the girl has lodged First Information Report voluntarily and it would be for the petitioner to prove that it was after pressure or insistance by the relatives and, therefore, this cannot be taken as a case where we should exercise our constitutional powers and issue writ of *Habeas Corpus*. The writ petition stands dismissed.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

agd