



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1848 OF 2024

Santosh Chimaji Shinde

VERSUS

The State Of Maharashtra And Another

- Mr. A. K. Bhosle, Advocate for the Appellant
- Mr. S. B. Jadhav, APP for the Respondent/State
- Mr. A. R. Hange, Advocate for the Respondent No. 2

CORAM : R.M. JOSHI, J

DATE : JANUARY 17, 2025

PER COURT :

1. Applicant seeks bail in connection with C.R. No. 103/2024 registered with Ashti Police Station, Dist. Beed for the offences punishable under Sections 363, 366(A), 376, 376(2)(i)(j)(n), 376(3) of the Indian Penal Code and Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

2. First information report is lodged by the father of the victim girl who is minor. Initially, an offence came to be registered under Section 363 of IPC as it was found that on 13.03.2024 the victim girl was not traced. It was revealed to the Informant that the

girl has eloped with the present Applicant. Subsequently, the statement of the victim girl was recorded wherein she claimed that there was forcible sexual relationship established by the Applicant with her, hence, other offences came to be added including offences under the POCSO Act.

3. Learned Counsel for the Applicant submits that investigation is completed and as such, further custody of the Applicant is not necessary. It is his submission by referring to the statement given by victim girl to the medical officer while she was medically examined to state that since she was tortured by her parents, she went along with the Applicant. It is his submission that in view of this statement this could be a case wherein the girl has voluntarily left the company of the parents. It is his submission that Applicant has no criminal history and as such, he is not likely to abscond. He, on instructions, makes voluntary statement that Applicant would not enter into the Taluka Ashti till the evidence of victim is recorded before the Trial Court.

4. Learned Counsel for Informant and learned APP

opposed the application by stating that the consent of the minor girl is immaterial. It is their submission that from statement under Section 164 of the CrPC it cannot be said that there was consensual relationship as she has candidly stated about forcible relationship being established by the Applicant. They also apprehend pressurizing of the witnesses, more particularly, victim by the Applicant, if he is enlarged on bail.

5. There cannot be any dispute made with the proposition sought to be canvassed on behalf of Counsel for Informant as well as learned APP that the consent of the minor girl would be immaterial for consensual relationship. However, at this stage, the Court is required to see as to whether there are mitigating circumstances in order to grant bail to the Applicant. First of all, Applicant is young person with no criminal history behind him. Further, this Court finds some substance in the contention of learned Counsel for the Applicant that history given to the medical officer clearly indicates that the girl did not leave the company of the parents on instigation of the Applicant but could have left company as she was tortured by

them. So also statement of the Applicant that he will not enter Taluka Ashti till the statement of the victim is recorded before Trial Court takes care of the apprehension of the prosecution and informant. Thus, there is no justification to keep Applicant behind bars by way of pre-trial punishment. He is not likely to abscond.

6. In view of above, application stands allowed.
Hence, the order:

O R D E R

- (i) Applicant in connection with C.R. No. 103/2024 registered with Ashti Police Station, Dist. Beed for the offences punishable under Sections 363, 366(A), 376, 376(2)(i)(j)(n), 376(3) of the Indian Penal Code and Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act, shall be released on bail on furnishing PB and SB of Rs. 15,000 (Rupees Fifteen Thousand Only) with one surety in the like amount.
- (ii) He shall not contact the witnesses directly or indirectly.
- (iii) He shall not interfere with the evidence in any manner whatsoever.
- (iv) He shall not enter Taluka Ashti till recording evidence of victim girl before Trial Court.

(R. M. JOSHI, J.)