



{1}

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 2077 OF 2024

Karan @ Nana S/o Baburao Kamble
Age: 23 years, Occu.: Education & Business,
R/o. Sarsam, Tq. Himayatnagar,
District Nanded. ... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Himayatnagar Police Station,
Tq. Himayatnagar, Dist. Nanded.

2. XYZ ... Respondent

.....
Mr. Santosh C. Bhosale, Advocate for Applicant
Mr. S.B. Narwade, APP for Respondent – State
Mr. Mubashirul Abedin Quazi, Advocate for Respondent No.2

.....

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 07 MARCH 2025
PRONOUNCED ON : 10 MARCH 2025

PER COURT :-

1. Instant application is for grant of regular bail on account of arrest of applicant in Crime No.0156 of 2024, registered at Himayatnagar Police Station, District Nanded for offences punishable under Sections 376(2)(n), 506 of the Indian Penal Code (IPC) and under Sections 4, 6, 8, and 12 of the POCSO Act.

{2}

2. Pointing to the date of arrest as 11.07.2024, learned counsel for the applicant submitted that, apparently, there was a love affair and long acquaintance. That, there is delay in lodging report. That, victim had allegedly reported her parents about sexual intercourse only when she was caught while in company of applicant. That, there was no previous complaint. That, in spite of finding applicant and victim together on a motorcycle in May 2024, report is lodged on 10.07.2024. Learned counsel pointed out that even applicant is a young boy and he is barely 23 years of age. That, now investigation is over, and charge-sheet is filed in August 2024 itself. Therefore, when no further recovery or discovery is shown to be made at his instance, learned counsel is seeking grant of bail on any condition deemed fit by this Court.

3. Learned APP as well as learned counsel for informant both have strongly opposed on the ground that victim is minor. That, her birth year is 2008. That, there was no love relations, rather threatening to make her photographs viral, she has been sexually exploited. Therefore, with such serious allegations, they both opposed relief of bail.

4. Learned counsel for respondent No.2-informant had sought reliance on decision of Hon'ble Apex Court in Suo Motu Writ Petition (C) No.3 of 2023.

{3}

5. Heard both the sides. Perused the papers including FIR. Crime seems to have been registered on the statement given by victim and has given her date of birth as 06.02.2008. Substance of the FIR is that, while she was studying in 11th Standard in May 2023, she started receiving messages on mobile and when responded, it is alleged that, present applicant expressed that he likes her very much and it seems they were both chatting thereafter. She has then reported that, in November 2023, when she was alone, he came to her house and against her wish, he had sexual intercourse with her, saying that, they are now as good as married, and he also snapped her photographs. According to her, thereafter, he repeatedly demanded sexual favour. But, out of fear, she claims to have not informed anyone. She claims that, in May 2024, she joined MSCIT Course. Thereafter, applicant also joined the same course. In June 2024, by threatening to make her photographs viral, he took her to spot namely, *Sahastrakund*, and had sexual intercourse with her. Then, she reported that in June 2024, he again call her at the same spot, but out of fright she accompanied him on motorcycle. However, someone from the village spotted them and informed her father, who then caught her while she was returning with the applicant on a motorcycle. But, again she claims that he started

{4}

threatening to show her photographs and make it viral, and therefore, report has been lodged.

6. Admittedly, investigation is over and charge-sheet is already filed in August 2024 itself. Applicant is behind bars since July 2024. *Prima facie*, on going through the FIR, it is emerging that, initially, after the responding to the applicant's message on WhatsApp, there was regular chatting and text messages by victim also. Here, FIR shows that he had sexual intercourse with the victim in November 2023 in her house, but she stated that, he had intercourse saying that, she should assume that now they are married and then snapped her photographs. Then, she had reported sexual intercourse in May 2024 at distinct place, namely, *Sahastrakund*. Then, she reported that on 29.06.2024, again threatening her to make the photographs viral and called her and took out at the same place, but someone spotted them together, and informed her father and they were caught while returning. But, she herself had stated that, after the said incident, her father brought her home, and applicant was allowed to go. Further, she reported that out of fear of getting defame, occurrence was not reported to police. But, as he was again threatening to make her photographs viral, report seems to have been lodged.

{5}

7. Learned APP as well as learned counsel for informant pointed out that victim is minor. Charge-sheet carries extract of school admission, but it is of not the first school where she took education. Rather, the first School seems to be Zilla Paarishad Prashala, Indira Colony Sarsam, Himayatnagar and subsequent document is procured from School namely, Kai. Shridharrao Deshmukh Vidyalaya, Sarsam (Bk.), Tq. Himayat nagar. Thus, *prima facie*, charge-sheet itself does not contain photocopy of birth certificate also.

8. Even otherwise, investigation is over and charge-sheet is already filed in August 2024 itself. No further purpose is shown to be achieved by further continuing detention of applicant, who is shown to be 23 years of the age. There are no immediate prospects of matter going for trial. Taking above circumstances into consideration, relief as prayed deserves to be granted. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) Applicant Karan @ Nana S/o Baburao Kamble, be released on bail in connection with Crime No.0156 of 2024, registered at Himayatnagar Police Station, District Nanded on executing Personal Bond of Rs.15,000/- with one surety in the like amount on following conditions:

{6}

- [a] The applicant shall not tamper prosecution evidence.
- [b] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial
- [c] The applicant shall not enter the vicinity of informant's residence or the institution where the victim girl allegedly takes education.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane