



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2111 OF 2024

Kiran Saranya Thakre,
Age : 28 years, Occu. : Labour,
R/o. Thanepada, Nandurbar,
Tq. & Dist. Nandurbar.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Nandurbar Taluka Police Station,
Tq. & Dist. Nandurbar.

2. X.Y.Z.

... Respondents.

.....
Mr. Girish V. Wani, Advocate for Applicant.
Mr. C. V. Bhadane, APP for Respondent – State.
Ms. Smita Chole – Kendre, Advocate for Respondent No.2 (Appointed)

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 17 JANUARY, 2025

PRONOUNCED ON : 20 JANUARY, 2025

ORDER :

1. Applicant seeks enlargement on bail in consequence to his arrest in Crime No. 0141 of 2024 registered at Nandurbar Taluka Police Station, Dist. Nandurbar for the offence punishable under sections 376, 376(3), 376(AB), 376(2)(N) of Indian Penal Code and under sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Learned counsel for applicant pointed out that, applicant and victim had love affair. That, there were physical relations resulting into pregnancy. Learned counsel fairly submitted that, victim is a minor, but according to him, there were long standing relations and victim herself in her statement stated about having sexual encounters on several occasions. That, there was no previous report at any point of time till advance pregnancy. That, there is no allegation of being forced upon i.e. in her statement to police or statement under section 164 Cr.P.C.. Thus, according to him, relations were purely consensual. According to him, applicant is behind bars since more than 8 months, he seeks enlargement on bail.

3. While opposing the application learned APP pointed out that, victim is admittedly a minor and therefore, theory of consent loses significance. According to him, it being serious offence, applicant does not deserve relief of bail.

4. Perused the papers, more particularly the FIR. Victim gave her age as 13 years and 3 months and substance of her report is that, since last three years, she had love affair with present applicant and he maintained physical relations with her, in her house repeatedly, as a result of which she conceived. On her above

report, crime has been registered. Her statement is also recorded before learned Magistrate, wherein though she stated that she liked applicant and had love relations with him and her such statement do not indicate any force, considering her age and nature of the crime, relief as prayed cannot be granted.

5. The application stands rejected.

6. Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)