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

BAIL APPLICATION NO.2374 OF 2024

Rakesh Kanilal Gavit

Age: 24 years, Occu.: Labour,

R/o. : Waghale,

Tq. and Dist. Nandurbar.

... Applicant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Visarwadi Police Station, Visarwadi,
Tq. and Dist. Nandurbar.

2. ABC

... Respondents

.....

Mr. Sushil P. Pandit, Advocate for Applicant

Mr. V.M. Jaware, APP for Respondent No.1 – State

Mr. Sayyed Tauseef, Advocate for Respondent No.2

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 MARCH 2025

PRONOUNCED ON : 04 MARCH 2025

PER COURT :-

1. Applicant seeks grant of regular bail on account of his arrest in Crime No.317 of 2024, registered at Visarwadi Police Station, District Nandurbar, for offences punishable under Sections 376(2)(N), 313, 323, 504, 506 r/w 34 of the Indian Penal Code (IPC) and Section 4, 5(J)(2), 5(L) of POCSO Act.

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2. Pointing to the date of arrest as 07.10.2024, learned counsel submitted that FIR is in fact 29.09.2024. That, there was love affair between applicant and victim. That, victim is shown to be 17 years and 6 months old, when alleged incident took place. Learned counsel took this Court through the statement of victim and submitted that, there was stay of almost one year together. That, last occurrence of sexual intercourse was of April 2024, but report is lodged in September 2024. That, there is hopelessly inordinate delay. That, now, investigation is over and charge-sheet is already filed in November 2024. That, there are no immediate prospects of matter going for trial. That, even the applicant is young boy of 24 years of age. That, when nothing is further shown to be recovered or discovered at his instance, according to learned counsel, his further detention is unwarranted. Lastly, it is submitted that applicant is ready to abide all and any conditions imposed by this Court.

3. Learned APP as well as learned counsel for respondent No.2 both have opposed on the ground that victim is admittedly minor, her date of birth is 18.03.2007. That, being a minor, theory of consent or love relations is insignificant. According to them, on the pretext of false promise of marriage, disadvantage of victim has

been taken. That, serious offence is committed, and hence, they both seek rejection of bail.

4. Heard. Perused the FIR dated 29.09.2024 at the instance of victim. Substance of FIR as is emerging is that victim has given her age as 17 years 06 months and 11 days on the date of FIR. She reported that, she studied in 12th Arts. According to her, in July 2022, while she was in 10th standard, she got acquainted with present applicant, and their acquaintance allegedly grew in love affair. She reported that on 25.03.2023, because of love relations, on her own, she ran from home, and thereafter, went with applicant and stayed with his sister's place at Bardoli. There, she claims that, assuring marriage, applicant had forcibly sexual relations with her. She stated that, she came back to her in-laws place, and they started residing as husband and wife. There also she claims about physical intimacy several times. She reported that, after few days, there was taunting for not cooking food, not doing work properly, and trouble given by her husband, parents-in-laws and elder brother-in-law. She further reported that, in January 2024, her pregnancy was revealed, but her husband and in-laws started insisting her to go for abortion, but she claims to have refused, and then she claims to have joined her husband-applicant to Surat, where he went for earning his livelihood. There, she claims

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that on 22.04.2024, he brought her medicine from *Aanganwadi* resulting in abdominal pain, and on 23.04.2024, he alleged brought her to Nanburbar and there she claims that her pregnancy was terminated. Then she reported that, present applicant left her at her mother's place at Shravni, but thereafter, he did not turn up and also switched off his mobile. She waited for him for long and then she lodged report.

5. On above report, applicant is shown to be arrested in October 2024. Now, the charge-sheet is already filed in November 2024. *Prima facie*, from the FIR, it appears that, initially there was acquaintance. It further appears that, initial acquaintance further grew into love affair and she seems to have on her own agreed about love relations, she herself has spent considerable time with present applicant since March, 2023 up to 24.04.2024 i.e. almost for 11 months. Though she alleged that there was forcible intercourse, she has addressed herself as wife of applicant and family members of applicant to be her in-laws. She has a few months short of eighteen. Even going by the date of birth reported to police, she is apparently over 17 years of age, and has already attained the age of discretion. It further emerges that after abortion, when she was living at her mother's place and when applicant did not bring her back, only thereafter, FIR has been filed. Now,

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investigation is over and charge-sheet is already filed in November 2024. No fruitful purpose would be served by continuing further detention of the applicant.

6. Considering the age of applicant and above facts, and there being no prospects of matter going for trial immediately, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Rakesh Kanilal Gavit be released on bail in connection with Crime No.317 of 2024, registered at Visarwadi Police Station, District Nandurbar on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane