



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2398 OF 2024

Rohidas S/o. Gulab Rathod,
Age : 29 years, Occu. : Agri.,
R/o. Sindi Tanda, Tq. Umri,
Dist. Nanded.

... Applicant

Versus

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

2. XXX.

... Respondents

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Mr. Santosh C. Bhosle, Advocate for Applicant

Mrs. Vaishali S. Chaudhari, APP for Respondent - State

Mr.R. V. Gore h/f. Mr.Namdev Kendre, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 20 JANUARY, 2025

PRONOUNCED ON : 21 JANUARY, 2025

ORDER :

1. Present application is for grant of regular bail as a result of arrest of applicant in Crime No. 0324 of 2024 for offence punishable under sections 137(2), 75, 78, 115(2), 351(2), 64(2) (M) and 3(5) of Bharatiya Nyaya Sanhita (BNS) and under sections 4, 8, 12 and 17 of the Protection of Children From Sexual Offences Act, 2012.

2. In support of relief, learned counsel for applicant

pointed out that, victim girl, daughter of informant is 17 years and 5 months old. That, there was love affair between applicant and said girl. That, victim girl has herself stated and admitted about it. That, there are allegations of kidnapping, but according to learned counsel, statement of girl itself shows that the girl herself forced applicant to elope with her. In statement before learned Magistrate it has also been informed in similar manner. That, no offence is committed by applicant. Subsequently, on pressure exerted by parents, victim spoke about physical contact. However, according to learned counsel, she has not uttered that said relations were under threat or by force. That, both, applicant and a girl have decided to perform marriage. Learned counsel pointed out that, even father has tendered affidavit regarding having no objection for grant of bail. For all above reasons, regular bail is urged for.

3. Learned APP opposed the application on the ground that apparently victim is below 18 years of age. Therefore, theory of consent or love relations become insignificant. That, as there are charges for commission of offence under the provisions of both BNS as well as POCSO Act, she prays to dismiss the application.

4. Perused the Papers. FIR seems to be at the instance of father on 19.09.2024 reporting that, his daughter aged 17 years went missing and that he suspected present applicant to be behind

it. On above report, crime was registered. Statement of sister of victim was recorded, wherein she has reported that 2 to 3 months back, applicant had caught hold of hand of her sister and she too suspected applicant was behind missing of her sister. However, such episode is not reported by sister to her father. Victim's evidence recorded by police dated 04.10.2024 as well as statement before learned Magistrate dated 11.10.2024, as pointed out clearly shows that girl herself suggested to the applicant that they both should elope, as her father is searching for suitable match for her. Taking the same into consideration and the statement made across the bar that informant father has tendered an affidavit about no objection for grant of bail and both victim and applicant have decided to get married, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

- (i) Application is allowed.
- (ii) Applicant Rohidas S/o. Gulab Rathod be released on bail in connection with Crime No.0324 of 2024 registered with Umri Police Station, District Nanded on executing P.B. of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE, J.)