



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

**BAIL APPLICATION NO. 1960 OF 2024
WITH
CRIMINAL APPLICATION NO. 11 OF 2025**

. Kiran Kisan Pawar
Age : 25 years, Occu. : Labour,
R/o. Datta Mandir Chowk,
Nimbalak, Saiban Near Ganesh Company,
MIDC, Tal. and Dist. Ahmednagar ... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
MIDC, Police Station,
Dist. Ahemdngar

2. XYZ ... Respondents

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Mr. Vijay V. Deshmukh, Advocate for Applicant.

Mr. N. D. Batule, APP for Respondent No. 1 – State

Ms. S. R. Shinde, Advocate for Respondent No. 2 (Appointed)

Mr. Amol S. Gandhi, Advocate for assist to APP.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 27 JANUARY, 2025

PRONOUNCED ON : 30 JANUARY, 2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in Crime No.0430 of 2024 registered at MIDC Police Station, District Ahmednagar for offence punishable under Sections 376(2)(f)(i)(n), 354-A, 506 of the Indian Penal Code (IPC) and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act).

2. Pointing to the date of arrest of applicant as 11-05-2024, learned counsel for the applicant submitted that there was love relations between applicant and victim, who was paternal cousin and residing at applicant's place. That, due to long stay of victim in their house, there was love relations. That, applicant is also 25 years of age. That, during love relations, there was physical contact resulting into pregnancy. That, after four months pregnancy, father of victim has lodged above report and applicant is arrested. Learned counsel pointed out that in statement under Section 164 of the Code of Criminal Procedure (Cr.P.C.) before the learned Magistrate, victim herself has reported that she has love relations with applicant, therefore, there was no rape as alleged. That, she further reported to the learned Magistrate that she does not want to prosecute and now they have plan to marry with each other as victim has delivered a child. That, now chargesheet is filed and nothing more is yet to be recovered and discovered. Therefore, learned counsel seeks grant of bail. He seeks reliance on the order of Coordinated Bench passed in Criminal Application (BA) No.718 of 2023 and seeks similar treatment.

3. Criminal Application No.11 of 2025 is filed by the maternal aunt of victim seeking permission to assist APP. Said application is allowed.

4. Learned APP took serious objection to the above submissions

and pointed out that victim is admittedly a minor. That, not only victim but her younger sister is also victimized by the applicant, who is none other than their cousin. That, the girls are exploited. That, being a minor, the theory of love relations and consent become redundant. Learned APP pointed out that there were allegations of threat and as victim and witnesses are close relatives, there is further possibility of misuse of liberty in tampering the evidence. For such reasons, learned APP seeks rejection of application.

5. Perused the papers. It seems that above crime is registered at the instance of father of victim, who is a labour reporting that, his daughter was raped by accused by issuing threats in August 2023 and forced physical relations are maintained and accused impregnated his daughter. On above report, MIDC Police Station, Dist.Ahmednagar seems to have registered above crime resulting into arrest of the applicant on 11-05-2024. On visiting the statement of victim recorded on 15-05-2024, it is revealed that, she has stated that, on account of demise of her mother, she and her younger sister were put up with her paternal aunt and they were helping their aunt in household work. She reported that in August, 2023, when she was alone, present applicant, who is her paternal cousin, tried to force himself by issuing threats and therefore, she did not put up resistance. She stated in her statement that time to time, her cousin had physical relations with her as a result of which she

conceived, but due to fear reported no one. She confided to her sister, who too reported of being victimized and she further reported to their father. Statement of such younger sister is also recorded. Further, on 16-05-2024, informant father, victim and her younger sister were produced before the learned Magistrate for recording statement under Section 164 of the Cr.P.C. In such statement, copies of which are placed on record, victim has stated that she had developed love relations with applicant and whenever physical relations took place, they were by with her consent and there was no force and she further stated that she wants to withdraw the case filed by her father against applicant. Even informant father's statement, which is recorded under Section 164 of the (Cr.P.C.) on the same day shows that he learnt from his daughter that she had love relations with applicant.

6. Learned counsel has admitted that because of physical relations with applicant, victim conceived. Statement is made across the bar that admittedly victim was a minor, but there was love relations and victim has admitted to that extent in her statement before the learned Magistrate. He has relied on the order of Coordinated Bench in similar case wherein there were love relations and even when victim was a minor, the Court had granted bail.

Here, admittedly victim and applicant are real cousins. It is

to be noted that learned counsel, who was appointed for protecting the interest of victim, also made a statement across the bar that victim is present in the Court today and on interactions, she again stated that physical relations were due to love and there was no force.

However, taking into consideration the fact that apparently victim is a minor and the fact that initially there was report of being raped by use of threat, though relief has been granted by the Coordinated Bench in Criminal Application No.718 of 2023, in view of the peculiar facts in the present case that victim, who has lost her mother and taking shelter in her aunt's place and she has been repeatedly ravished and hence, though subsequently, before the learned Magistrate, statement has been given under Section 164 of the Cr.P.C. about love relations, this Court does not consider it a fit case to grant relief of bail, more particularly, taking into account the age of the victim and circumstances in which repeated occurrences have taken place. Hence, the following order is passed:-

ORDER

- (i) Bail Application No.1960 of 2024 is rejected.
- (ii) Criminal Application No.11 of 2025 is disposed of.
- (iii) Fees of the learned counsel appointed to represent respondent no.2 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per Rules.

(ABHAY S. WAGHWASE, J.)