

Order Below Exh.1 in
Cri. B. A. No.2/2022
Hiraman Santu Fasale Vs. State

Heard : Learned Adv. Mr. B. M. Singada for the applicant.
Ld. A.P.P. Ms. S.S. Sangle for the State.

1. The applicant has sought bail under section 439 of Criminal Procedure Code in Crime No.592/2021 registered at Dindori Police Station, for the offence punishable under sections 376(1), 376(2)(i)(j), 363, 366A of the Indian Penal Code, 1860 and Sec. 6, 8 & 12 of POCSO Act. It is the case of prosecution

in brief that the applicant/ accused kidnapped the minor victim by enticing her and committed sexual intercourse with her over a period of time.

2. Learned Advocate for the applicant has submitted that the victim (who is 16 years, 6 months days old), willingly eloped with the applicant. It is a case of love-affair and that bail application should be allowed in such cases. In order to buttress his contentions further, he has relied on the citation in the case of **Anirudha Radheshyam Yadav V/s. State of Maharashtra 2020 ALL MR (Cri) 1351**. In this case bail was granted to the applicant even though the victim was only 14 years old and had willingly accompanied the accused.

3. Per contra, Ld. APP has opposed the bail application on the ground that the offence is serious in nature. There is prima-facie case against the applicant. Investigation is in progress and charge-sheet is yet to be filed. The above citation is therefore not applicable to the

facts of the present case and also because in the case at hand, the accused is almost double the age of the victim and is a married man with a child.

4. The citation in the case of Anirudha (Supra) is not applicable to the facts of the present case, in as much as in the case at hand the investigation is in progress and charge-sheet is yet to be filed apart from the fact that the accused is a married man. Apprehension of the Ld. A.P.P. that if the accused is released on bail, there are chances of his tampering with the prosecution witnesses is well-founded. In view of the foregoing discussion, I am inclined to reject the application.

ORDER

Application is hereby rejected.

Nashik
Dt.-12/01/2022

M.V.Bhatia
District Judge-2 and
Addl.Sessions Judge Nashik.