

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

25 CRIMINAL APPLICATION NO. 3640 OF 2016

LAXMAN S/O SATISH KALE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. R.R.Deshmukh h/f Mr. R.B.Deshmukh,
Advocate for Applicant.

Mr. S.D.Ghayal, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 7th SEPTEMBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 37/2016 registered at Murud police station, Dist. Latur for the offences punishable U/ss 363,366-A,376 (2) (N),372 read with 34 of the Indian Penal Code, u/ss 6 and 17 of the Prevention of Children from Sexual Offences Act, 2012 [for short, 'POSCO Act'] and u/ss 4 and 5 of the Prevention of Child Marriages

Act, 1929, by this application is seeking release on bail after filing of the charge sheet.

2. Heard the learned counsel for the applicant. He argued that the F.I.R. lodged by the father of victim girl shows that some unknown person has kidnapped his daughter on 18/02/2016. The learned counsel further argued that the applicant had sold one she buffalow to the informant Amin Ibrahim Shaikh and he was to recover the amount of consideration of the said transaction. As the informant Amin Ibrahim Shaikh was not willing to pay the amount, the applicant is falsely implicated in the crime in question by the informant. The learned counsel further argued that the F.I.R. shows that the applicant has purchased mobile phone for the victim girl. The learned counsel submitted that the applicant will not stay in the said village during the pendency of the trial.

3. As against this, the learned A.P.P. opposed the application by submitting that the statement of the victim girl may be considered in view of the mode and the manner in which the crime has been committed.

4. Perused the F.I.R. The informant has not averred that as to who has kidnapped his daughter and, therefore, he has reported that some unknown person had kidnapped his daughter. If really he wanted to implicate the applicant falsely in the crime in question, then he certainly would have disclosed the name of the applicant. Moreover, in the

traditional Indian society, *prima facie*, it can not be digested that the father, in order to avoid payment of purchase price of the she buffalow, would falsely implicate a person by making accusation that said person had kidnapped and committed rape on his own daughter. As such, the arguments so advanced are not appealable.

5. It is seen that during investigation, missing female child was traced out and her statement was recorded on 23/02/2016. Her statement shows that the applicant had committed penetrative sexual assault on her more than once or rather repeatedly. Thereafter it is seen from the statement of the minor female victim that the applicant had taken her to Kolhapur and at that place against the wishes of the minor female child, she was married to co-accused Sandeep Kasar. It is further stated by the minor female child that thereafter co-accused Sandeep Kasar had repeatedly committed rape on her up to 22/02/2016.

6. *Prima facie*, it is seen that the present applicant had kidnapped minor female child, committed rape on her repeatedly and subsequently took her to Kolhapur and married her to co-accused Sandeep Kasar.

7. The offence punishable u/s 6 of the POSCO Act is punishable with imprisonment which is not less than 10 years and even for life imprisonment. Considering the nature of crime committed by the present applicant, no case for bail is made out.

8. Present Criminal Application stands rejected and disposed of accordingly.

[A.M.BADAR, J.]

KNP/Cr.Apln. 3640.2016