Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3 OF 2016

Deepak @ Pappu Rampyare Rajput ... Applicant
Vs.
The State of Maharashtra ... Respondent

Ms. Vrushali R. Raje, Advocate for the applicant.
Mr. S.H. Yadav, APP for the State.
Mr. S.N. Narsule, P.I., Dahanu Police Station, Dist. Palghar present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **21st April, 2016.**

P.C.:

This Application is moved by the applicant/accused for bail, as he is facing prosecution for the offences punishable under sections 336, 363, 354(a)(ii) r/w. 34 of the Indian Penal Code and under sections 7 and 8 of Prevention of Children from Sexual Offences Act.

2. The offence of kidnapping has taken place on 20th September, 2014 when the complainant, who was 17 years old, was returning from her class at around 7.45 p.m. One unknown person suddenly came near her and pushed her forcibly in a white car bearing no. MH-48A 9747. He asked the driver to start the car. When she asked him why he was taking her, he held her neck and told her to keep quiet. When she tried to phone her father, he took away her cellphone. When the car was proceeding, she jumped from the car, at that time, she got injured and her bag, purse and notebooks were in the car. Then she gave complaint to the police, pursuant to which

an offence was registered at C.R. No. I-79 of 2014 with Dahanu Police Station, District Palghar on 20th September, 2014. The applicant/accused was arrested on 21st September, 2014. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. There is no sufficient evidence to connect the case with the incident of kidnapping. No offence under section 354(a)(ii) or under section 7 of POCSO is made out. She submitted that the offence under sections 363, 336 is bailable. She further submitted that the applicant/accused is in prison since last 1½ year and so he be released on bail.

4. Learned APP opposed the Bail Application. He submitted that the applicant/accused is having criminal record. The applicant was earlier convicted for the offences under sections 392, 506 r/w. 34 of the Indian Penal Code on 11th February, 2015 by the learned JMFC and he was sentenced to suffer R.I. for three months. Similarly, he was also convicted for the offences punishable under section 324 of the Indian Penal Code and was sentenced to suffer R.I. for 6 months by the judgment and order dated 11th September, 2015 of the learned JMFC, Dahanu. He submitted that the applicant/accused has kidnapped the complainant and has also outraged her modesty so he is prosecuted under relevant sections of Indian Penal

Code and POCSO.

5. Perused the FIR and the statement of the owner of car, so also statement of one passerby. On the basis of the statements, *prima facie* it appears that there is an evidence against the applicant/accused of committing an offence of kidnapping, however, the offence under sections 336 and 363 is bailable. Though the applicant/accused is convicted for other two offences, there is no offences which is non-bailable against the applicant/accused. The applicant/accused is behind the bar since 21st September, 2014. Hence, bail is granted to the applicant/accused on the following terms and conditions:

O R D E R

(i) Application is allowed.

(ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.40,000/- with one or two sureties in the like amount;

(iii) The applicant shall not pressurize the complainant;

(iv) The applicant shall not indulge into any criminal activity especially against human body or against women including children.

(v) The applicant shall make himself available and attend all Court dates;

(vi) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;

(vii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)