

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

21 CRIMINAL APPLICATION NO. 3054 OF 2017

NILESH S/O. PRAKASH PARDESHI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Vinay B. Anjanwatikar.
APP for Respondents : Mr. A. A. Jagatkar.

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CORAM : **V. K. JADHAV, J.**
DATE : 18th September, 2017.

ORDER :

. This is an application filed for getting released on bail in connection with Crime No.117 of 2016 registered at Deopur West Police Station, District Dhule for the offences punishable under Sections 363, 366, 376(I), 504 and 506 read with 34 of the Indian Penal Code and Sections 3 and 4 of the POCSO Act, 2012. His application with similar prayer below Exhibit 3 in Special (POCSO) Case No.16 of 2017 came to be rejected by the Additional Sessions Judge, Dhule by order dated 24th April, 2017.

2 Brief facts giving rise to the present application are as follows:

On the basis of the complaint lodged by the father of victim dated 1st December, 2016, the aforesaid crime came to be registered.

It has been alleged in the complaint that the victim was taking education in 11th standard in Jaihind College, Dhule. The Applicant is the sports teacher and he used to meet the victim under one or another pretext. It has been stated in the complaint that on 28th November, 2016 at about 11:30 pm, the victim had been to her college alongwith her aunt. However, the victim remained near the district sports complex under the pretext that she would meet her sports teacher. However, in the evening time, the victim was not found and as such, the said aunt had given information about the same to the informant. Thereafter, the informant and his family members taken search of the victim. However, she was not found. Even the informant had tried to contact the present Applicant on his mobile phone, however, his mobile phone was switched off. It has been thus, alleged in the complaint that the present Applicant had induced the victim and taken her out from his lawful custody. Subsequently, the victim was found in one hotel at Shegaon by the police. Her statement was recorded. The victim has alleged that the Applicant on the point of knife, committed sexual atrocities on her and thereafter, took her to various places by showing her knife. On the basis of these allegations, the Applicant came to be arrested on 4th December, 2016.

3 The learned counsel for Applicant submits that the Applicant is a teacher by occupation. It appears from the contents of complaint that the victim had left her aunt under the pretext that she would meet her sports teacher. It further appears from the statement of the victim that the Applicant had given her a promise of marriage and as such, on 28th November, 2016, she had joined his company and even on his motorcycle went to Nashik. She remained in Nashik till 30th November, 2016 and again traveled with the Applicant from Nashik to Shirdi and Shirdi to Shegaon. The learned counsel submits that the age of the victim is more than of 16 years. It is the age of understanding. Antecedents of the Applicant are clear. He is not a criminal person. It is a sort of love affair. The Applicant has a fixed place of residence and he is easily available for trial.

4 The learned APP has strongly resisted the application on the ground that the Applicant has not only induced the victim under the promise of marriage, but also committed rape on her on the point of knife. The victim has given her statement against the Applicant. There is a strong *prima-facie* case against the Applicant and the possibility of tampering with the prosecution evidence cannot be ruled out.

5 On perusal of the complaint and the charge-sheet, it appears that the victim was fallen in love with the Applicant. The Applicant is a young and unmarried person. He is serving as a teacher. Though the Applicant was minor at the time of incident, on her own she joined the company of the Applicant and traveled with him to various places. Even she had stayed at Nashik in the house of the friend of the Applicant for 2-3 days. Even thereafter, she traveled with the Applicant to various places. It appears from the statement of victim that she traveled with the Applicant on his motorcycle openly. Antecedents of the Applicant are clear. He has no criminal history. In the circumstances, I am inclined to grant bail to the Applicant. Hence, the following order:

ORDER

- I. Criminal application is hereby allowed.
- II. Applicant NILESH S/O. PRAKASH PARDESHI be released on bail in connection with Crime No.117 of 2016 registered at Deopur West Police Station, District Dhule on furnishing personal bond of Rs.15,000/- with one surety of the like amount on the following conditions:

- a) The Applicant shall not tamper with the prosecution evidence in any manner.
- b) The Applicant shall not make attempt to meet the victim in any manner till conclusion of the trial.
- c) The Applicant shall attend the concerned Police Station once in a week on every Sunday in between 09:00 am to 11:00 am for a period of three months from today.

III. Criminal application is accordingly disposed of.

[V. K. JADHAV, J.]

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