

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2193 OF 2018

Sujit Sanjay AhireApplicant

V/s.

The State of MaharashtraRespondent

Mr. Amey Deshpande i/b. Mr. J.D. Khairnar for the applicant.

Mrs. J.S. Lohkare, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 30th AUGUST, 2018.

P.C.:

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.21/2018 registered at Killa Police Station, Malegaon, District Nashik for offences punishable under sections 376 (1) (2) (i), 363, 366, 306 r/w. 34 of the Indian Penal Code and sections 3 and 8 of Protection of Children from Sexual Offences (POCSO), Act.

2. Heard Mr. Amey Deshpande, learned counsel for the applicant and Mrs. J.S. Lohkare, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The records *prima facie* reveals that the victim girl who was 17 years of age had gone missing since 05/04/2018. The mother of the girl has lodged a missing report wherein she had stated that on 05/04/2018, she had scolded the victim for not accompanying her to the paddy field. Later, at about 04:00 p.m., when she returned home, her husband told her that the victim girl had gone to the school to collect her reports and that she had not returned. She, therefore, lodged the said report.

4. On 08/04/2018, the uncle of the victim, Shantilal Bhosale lodged a report against the applicant and his family members suspecting that they were involved in enticing and abducting the victim who was already engaged to Chetan. It was alleged that faced with the humiliation, the father of the victim had committed suicide. The first informant alleged that the applicant and his family members had abetted the suicide of his brother. On the basis of this first information report, the aforesaid crime came to be registered against the applicant and his family members.

5. The statement of the victim has been recorded. Her statement *prima facie* reveals that she knew the applicant since last about two

years. The applicant had told her that he was in love with her. She claims that she had told the applicant that she was engaged. She has stated that the applicant had given her a mobile set and that she used to constantly talk to the applicant. She has stated that in the month of March, she got engaged to one Chetan and at that time, the applicant had told her to elope with him or else he would commit suicide. She claims that on 05/04/2018 at about 10:30 a.m., she met the applicant at his request. They went to Manmad and took a train to Kalyan and thereafter took a bus to Bhiwandi. She purchased clothes for herself and accompanied the applicant to Vajreshwari. They stayed in a room at Vajreshwari till 10/04/2018. She claims that the applicant had physical relationship with her on 10/04/2018 at Vajreshwari. As suggested by the applicant on 10/04/2018, they reported to Nashik Police Station and they were referred to Killa Police Station.

6. The statement of the victim *prima facie* indicates that she was in friendly terms with the applicant. Despite her engagement, she had accompanied the applicant to Vajreshwari and had physical relationship with him. It is true that the victim is a minor and hence, her consent for having sexual relationship is immaterial. Nevertheless, considering the nature of the material as against the applicant as well

as considering the fact that investigation is complete in all aspects and charge sheet has already been filed and the case is already committed to the Sessions Court, in my considered view, this is not a case which warrants custody pending trial. Hence, I pass the following order :-

- (a) Bail Application is allowed.
- (b) The applicant who is facing trial in Sessions Case No.82/2018 (arising out of C.R.No.21/2018), is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Fifty Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Sessions Court, Malegaon.
- (c) The applicant shall not interfere with the victim or the other witnesses in any manner.
- (d) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.
- (e) The applicant shall not change his residential address without prior intimation to the concerned Court.

(SMT. ANUJA PRABHUDESSAI, J.)