

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application NO. 2211 OF 2019

Sunny Ashok Kadam

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Mr. Anand S. Patil, Advocate for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent-State.

....

CORAM : SARANG V. KOTWAL, J.

DATE : 24th SEPTEMBER, 2019

PC.

1. The applicant is seeking his release on bail in connection with C.R. No.72/2019 registered at Vadgaon Police Station, District – Kolhapur under Sections 376, 366A, 354 read with 34 of I.P.C. and under Sections 5, 6, 7, 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (hereinafter referred to as ‘POCSO Act’).

2. The FIR is lodged by one Dinkar Madane on 8.2.2019. He has stated that he was working in an agricultural

field near Vadgaon pond. He saw that two persons had brought a small girl child to a nearby spot. The girl was taken forcefully towards a secluded spot. The girl was trying to rescue herself and was trying to run away. However, she was overpowered by the applicant and they got her on motorcycle and took her to a sugar-cane field. The girl was shouting all the time and was seeking help. The informant and one Subhash went towards them. The girl in the meantime got away from their clutches and went inside the pond and stood in the water. The informant and Subhash went near those two persons. They were under influence of liquor. By seeing her saviours, the girl came near them and told the informant that one of the persons was the present applicant and they had forcefully abducted her. On this basis, the FIR is lodged.

3. The applicant was arrested on 9.2.2019 and since then the applicant is in custody. The investigation is over and the charge-sheet is already filed.

4. I have heard Shri Patil, learned Counsel for the applicant and Shri Jadhav, learned A.P.P. for the State.

5. Learned Counsel for the applicant Shri Patil submitted that the offence under Section 376 of IPC is not made out and at the highest offence under Section 12 of POCSO is made out from the FIR for which the maximum punishment is five years. The applicant is already in custody since February, 2019. He, therefore, submitted that the applicant may be released on bail.

6. Learned A.P.P. Shri Jadhav opposed these submissions. He pointed out that other sections are properly applied, though at this stage it is difficult to suggest that Section 376 of IPC is made out. However offence of attempt to commit rape is obviously shown in the F.I.R.

7. I have considered all these submissions. The manner in which the offence was committed is absolutely inhuman. The statement of the victim is recorded under Section 164 of Cr.P.C. She has clearly stated that the applicant and his friend Hrushikesh had forcibly kidnapped her and had taken her to the secluded spot and the applicant was trying to commit rape. Her description of the events shows that it was a very serious and heinous offence

committed by the applicant. Before he could cause further damage fortunately the informant and his friend went there and rescued the victim.

8. In this view of the matter, absolutely no case is made out for grant of bail. Application for bail is rejected.

(SARANG V. KOTWAL, J.)