

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

23 BAIL APPLICATION NO.1120 OF 2020

1. MUNNA @ GANGARAM BHURALAL JADHAV
2. RAM @ REMALYA MUNSINGH BHILALA (PAVRA)
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Kazi Sabahat T.
APP for Respondent : Mr. A S Shinde

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CORAM : V.K. JADHAV, J.
Dated : October 20, 2020

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PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No.89 of 2020 registered with City Police Station, Chopda, District Jalgaon for the offences punishable under sections 363, 366-A, 376(1) (A) read with Section 34 of the Indian Penal Code and under sections 4,8 and 12 of the Protection of Children from Sexual offences Act. His application Exh.6 in Spl. Case No.31 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Amalner vide order dated 11.9.2020.

2. Learned counsel for the applicants submits that investigation is now over and charge-sheet has been submitted. Applicant nos.1 and 2 are the relatives interse. Learned counsel submits that it has been alleged in the complaint that the informant's family and applicant nos.1's family agreed for the marriage of applicant no.1 with the victim, however, thereafter, the informant and her family members found that applicant no.1's financial condition is poor and he was not doing any work. Thus, the informant and her family members further refused for the said marriage. Learned counsel submits that as per the tradition in the Bhil community, bridegroom has to give certain amount to the bride before the marriage and since that amount was not given, applicant no.1 has been falsely implicated in this crime. Learned counsel submits that the informant/victim is 17 years and 6 months of age. It has been alleged in the complaint that she was forcibly taken on motorcycle from village Virvade, Tq. Chopda to village Sagmuli, State of Madhya Pradesh on 29.6.2020 she was kept there till 7.7.2020. Learned counsel

submits that practically it is impossible that victim did not get any opportunity to raise hue and cry during that period of journey. It further appears from the complaint that on 7.7.2020 informant was brought to her village by the applicant no.2-Remalya. Learned counsel submits that during the said period of 29.6.2020 till 7.7.2020 family members of the informant have not bothered to file any missing report in the police station. Even though informant has returned to home on 7.7.2020, there is a delay of three days in lodging the complaint, which is not explained. Learned counsel submits that both the applicants are in jail in connection with the present crime since long. They have a fixed place of residence. The applicants have placed on record Aadhar card, elector photo identity card, ration card etc., The applicants are ready to abide the conditions. They are available for trial. The applicants may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that informant was less than

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18 years of age and, as such, her consent is immaterial. Informant has made a specific allegation to the effect that that both the applicants took her on motor bike forcibly from village Virvade to the State of Madhya Pradesh and, thereafter kept her in the house of applicant no.1 and even at some different places in the same village till 7.7.2020. Medico-legal Examination Report of Sexual Violence is positive and, *prima facie*, there is strong case against the applicants. The applicants may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, though, I find certain allegations have been made against the applicants by the informant/victim, and it appears that on 29.6.2020 at about 7.00 p.m. she was taken on motorcycle by the applicants forcibly. It has been alleged that she was taken to the State of Madhya Pradesh on motor bike at village Sagmuli, Tq. Saindhva, Madhya Pradesh. It is further pertinent that informant was thereafter brought to her village Virvade, Tq.

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Chopada by applicant no.2. It is also pertinent that even though informant has travelled such a long distance on bike along with the applicants, she did not get any opportunity to complain to any person or to raise hue and cry during the said journey. There is not a single witness from the said village Sagmuli, Tq. Saindhva to show that informant was really kept forcibly in the house of applicant no.1. It is also pertinent that from 29.6.2020 to 7.7.2020 family members of the informant have not bothered to lodge missing report in the concerned police station. Both the applicants have placed on record the documents indicating their permanent residence such as elector photo identity card, ration card, aadhar card etc. It thus appears that both the applicants are having fixed place of residence, easily available for trial. Thus, considering the entire aspect of the case, I am inclined to release the applicants on bail. Hence, following order.

O R D E R

I. Application is hereby allowed.

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II. Applicant nos.1] MUNNA @ GANGARAM BHURALAL JADHAV AND 2] RAM @ REMALYA MUNSINGH BHILALA (PAVRA) in connection with Crime No.89 of 2020 registered with City Police Station, Chopda, District Jalgaon for the offences punishable under sections 363, 366-A, 376(1)(A) read with Section 34 of the Indian Penal Code and under sections 4, 8 and 12 of the Protection of Children from Sexual offences Act, be released on bail on furnishing P.B. of Rs.25,000/- (Rs.Twenty Five Thousand) each, with one solvent surety EACH of the like amount on the following conditions :-

- a] The applicants shall not tamper with the prosecution evidence, in any manner.
- b] The applicant no.1 Munna @ Gangaram Bhuralal Jadhav shall not make any attempt to meet or communicate the informant in any manner till the conclusion of the trial.

III. Bail application is accordingly disposed off.

(V.K. JADHAV, J.)

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