

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

BAIL APPLICATION NO.1139 OF 2020

Dipak s/o Ravindra Bhil

Applicant

Versus

The State of Maharashtra

Respondent

Mr.Akshay Kulkarni, advocate holding for Mr.J.V.Patil, advocate for the applicant.

Ms.D.S.Jape, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 22nd October, 2020.

PC :

1 The applicant – Dipak s/o Ravindra Bhil is seeking bail in connection with Crime No.25/2020 (FIR No.42/2020), registered with Chopda City Police Station, Chopda, Tq. Chopda, District Jalgaon, for the offences punishable under Sections 363, 366-A, 376(1)(A), 376(3) of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2 Heard both sides.

3 Learned Counsel for the applicant submits that the investigation is over and the charge sheet has been submitted. The applicant, who is 21 years of age, is in jail in connection with present crime since long. The learned Counsel submits that as per the statement of victim , the applicant and the victim were in

talking terms since one year and there was love affair between them. The learned Counsel submits that on 05.02.2020 at about 12.00 noon, the victim left her house on her own under the pretext that she was going to the school and joined the company of the applicant by traveling in one auto rickshaw. The victim alone had crossed the distance from Akulkheda bus stand to Chopda bus stand in auto rickshaw. On reaching there, she travelled along with the applicant from Chopda to Dhule and from Dhule to Ahmednagar. It further appears from the statement of the victim that from Ahmednagar, they went to Karmala. It has been further stated by her that the applicant met there with one of his acquaintance and disclosed him that the applicant and victim got married. It further appears from her statement that they started residing in one rented house and further they both started doing labour work in the agriculture field. It appears that the victim has thereafter made a phone call to her mother and accordingly, her mother, along with police, went there and brought the victim to their house. The learned Counsel submits that there is no evidence about any threats being given by the applicant to the victim nor the victim joined the company of the applicant under threats. The learned Counsel submits that the applicant is having fixed place of residence. He will be available for trial. There is no criminal history. The learned Counsel, as such, submits that the applicant may be released on bail.

the ground that the victim was 14 years and 7 months of age at the time of alleged incident and as such, her consent, if any, is immaterial. The learned A.P.P. submits that the applicant has not only kidnapped the victim, who is minor, from the lawful custody of her parents, but also performed sexual intercourse with her. The medico legal examination report of sexual violence supports the allegations made by the victim. The learned A.P.P. submits that there is *prima facie* case against the applicant. She, therefore, submits that the applicant may not be released on bail.

5 On going through the allegations made in the complaint and on perusal of the charge sheet, it appears that there was love affair between victim and the applicant since one year and in consequence thereof, on 05.02.2020 at about 12.00 noon, the victim had joined the company of the applicant on her own by leaving her house under the pretext of going to school. The victim has given details in her statement as to how she has travelled with the applicant at various places and finally stayed with the applicant, as his wife, at Karmala in rented house and also worked as labour in the agriculture field. It also appears from the statement of the victim that she alone had travelled in auto rickshaw from Akulkheda bus stand to Chopda bus stand and joined the company of applicant at Chopda bus stand. Though there are allegations that the victim had joined the company of applicant due to the threats extended by the applicant to her, however, the statement of the victim is contrary to the said allegation

about threats. The applicant is 21 years of age having no previous criminal history. The applicant is available for trial. Thus, by imposing certain conditions, I am inclined to release the applicant on bail.

6 Hence, the following order:

(i) The applicant - Dipak s/o Ravindra Bhill, in connection with Crime No.25/2020 (FIR No.42/2020), registered with Chopda City Police Station, Chopda, Tq. Chopda, District Jalgaon, for the offences punishable under Sections 363, 366-A, 376(1)(A), 376(3) of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, be released on bail on his furnishing Personal Bond of Rs.20,000/- (Rs. Twenty Thousand) with one solvent 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 any attempt to meet or communicate the victim, in any manner, till the conclusion of the trial.

7 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

adb