

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 BAIL APPLICATION NO.1166 OF 2020

SAGAR GANGA @ GANGADHAR SONAWANE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Temkar Rajendra K.
APP for Respondents: Mr. S.P. Deshmukh
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CORAM : V. K. JADHAV, J.
DATED : 18th DECEMBER, 2020

PER COURT:-

1. The applicant is seeking bail in connection with crime No. 79 of 2020 registered with Akole police station, District Ahmednagar for the offences punishable under Sections 363, 366, 366(a), 376(1), 376(2) (n), 506 of I.P.C. and under Sections 4, 8, 17 of Protection of Children from Sexual Offences Act 2012. His criminal bail application bearing No. 182 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Sangamner vide order dated 10.9.2020.

2. Learned counsel for the applicant submits that the investigation is over and the charge sheet has been submitted. The applicant is in jail in connection with the present crime since 13.5.2020. The applicant is 21 year of age having no criminal history. The learned counsel submits that there was love affair between the victim and the applicant and as per the allegations made in the

complaint, the victim on her own, had joined the company of the applicant though her own mother was chasing her. Learned counsel submits that the victim has taken different stand when her statement came to be recorded under Section 164 of Cr.P.C. before the Magistrate. However, in the police statement, the victim has stated that she herself and the applicant are in love with each other and they have decided to perform the marriage. Learned counsel submits that as per the statement of the victim recorded by the police, there was consensual sexual relations. The applicant is having a fixed place of residence and easily available for trial. The applicant is ready to abide the conditions, if any, imposed by this Court, while enlarging him on bail. The applicant may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that the victim is less than 16 years of age and as such, her consent in any form is immaterial. The learned A.P.P. submits that as per the statement of the victim recorded under Section 164 of Cr.P.C. before the Magistrate, the applicant has given her false promise of marriage, took away from her house. The applicant has committed sexual intercourse with the victim against her will. Learned A.P.P. submits that finding in the medical certificate prima facie supports the allegations made by the victim. However, final opinion is yet not given by the Medical Officer, who has examined the victim. Learned A.P.P. submits that there is possibility of tampering with the prosecution evidence. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of charge sheet, particularly the statement of the victim recorded by the police, it appears that there was love affair between the victim and the applicant and as a result of thereof, the victim left the house on her own and even though her mother was chasing and calling her on mobile, she joined the company of the applicant and ran away with him. It further appears that the victim had stayed with the applicant at various places voluntarily and they had consensual sexual relations. It further appears that the victim after registration of the crime and after the applicant and the victim traced out by the police remained in the custody of the parents. It appears that the victim has given altogether different story. Thus, considering the nature of the allegations and since the applicant is young person having no criminal history, I am inclined to release the applicant on bail on certain conditions. Hence the following order:-

O R D E R

- I. Application is hereby allowed.
- II. The applicant Sagar Ganga @ Gangadhar Sonawane, in connection with crime No. 79 of 2020 registered with Akole police station, District Ahmednagar for the offences punishable under Sections 363, 366, 366(a), 376(1), 376(2) (n), 506 of I.P.C. and under Sections 4, 8, 17 of Protection of Children from Sexual Offences Act 2012 be released on bail on

furnishing personal bond of Rs.20,000/- with one solvent surety of the like amount on following conditions:-

- a) The applicant shall not tamper with the prosecution evidence in any manner.
- b) The applicant shall not meet or communicate the victim, in any manner, till the conclusion of trial.

III. Application is disposed of.

(V. K. JADHAV, J.)

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