

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

BAIL APPLICATION NO.1230 OF 2020

Kuldeep s/o Hanumant Kale

Applicant

Versus

The State of Maharashtra

Respondent

Mrs.S.G.Chincholkar, advocate for the applicant.
Mr.S.P.Deshmukh, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 02nd December, 2020.

PC :

1 The applicant is seeking bail in connection with Crime No.0245/2020, registered with Police Station Shrigonda, for the offences punishable under Sections 363, 366-A, 376(2) (f) (n), 504, 506 of the Indian Penal Code and under Sections 3, 4, 5(n) & 9(n) of the Protection of Children from Sexual Offences Act.

2 Heard both sides.

3 The learned Counsel for the applicant submits that the investigation is over and charge sheet has been filed. The applicant is in jail since 13th June, 2020. The learned Counsel submits that the applicant is husband of the elder daughter of the informant. It has been alleged that on 16th March, 2020, the applicant, along with his friends, forcibly took the victim with him. The learned Counsel submits

that during the course of investigation, statement of the victim came to be recorded under Section 164 of the Criminal Procedure Code before the Magistrate wherein the victim has stated that she had joined the company of applicant on her own as she has fallen in love with the applicant and started residing with him voluntarily. The victim has also stated in the said statement that they have sexual relations mutually. She has also stated in her statement that she was not forced by the applicant at any point of time. The learned Counsel for the applicant submits that there is no criminal history. Applicant is ready to abide by the conditions, if imposed by this Court. He, therefore, submits that the applicant may be released on bail.

4 The learned A.P.P. has strongly resisted the application on the ground that the victim is less than 18 years of age and as such, her consent, if any, is immaterial. The learned A.P.P. submits that the applicant, who is husband of the elder daughter of the informant, has kidnapped the victim forcibly from the custody of her parents and thereafter committed rape on her. The learned A.P.P. submits that at present the victim is pregnant. *Prima facie*, there is a strong case against the applicant. There is every possibility of tampering with the prosecution evidence, if the applicant is released on bail. He, 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, particularly, the statement of the

victim under Section 164 of the Code of Criminal Procedure, recorded before the Magistrate, it appears that the victim has voluntarily joined company of the applicant as she has fallen in love with him. It further appears that the applicant and victim have stayed at various places as husband and wife. The victim has also stated in the said statement that her father has made a demand of cash amount for compromising the matter with the applicant. The victim, though a minor girl, has specifically stated that the applicant has not forced her to join his company nor committed rape on her. It is not disputed that the victim is at present with her parents. Thus, considering entire aspects of the case, particularly, nature of the allegations, relationship between the parties, in my considered opinion, further detention of the applicant in jail is unwarranted and uncalled for. So far as possibility of tampering with prosecution evidence is concerned, that can be taken care of by imposing certain conditions. In view of the same, I am inclined to release the applicant on bail with certain conditions.

6 Hence, the following order:

(i) The applicant-Kuldeep s/o Hanumant Kale, in connection with Crime No.0245/2020, registered with Police Station Shrigonda, for the offences punishable under Sections 363, 366-A, 376(2) (f) (n), 504, 506 of the Indian Penal Code and under Sections 3, 4, 5(n) & 9(n) of the Protection of Children from Sexual Offences Act, 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 with the victim, in any manner, till conclusion of the trial.

7 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

adb