

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 BAIL APPLICATION NO.1310 OF 2020

LALU @ SANJU BHISAN SONWANE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. S.G. Bobade
APP for Respondents: Mr. R.V. Dasalkar
.....

CORAM : V. K. JADHAV, J.
DATED : 18th DECEMBER, 2020

PER COURT:-

1. The applicant is seeking bail in connection with crime No. 68 of 2020 registered with Pishor police station, District Aurangabad for the offences punishable under Sections 363, 366(A), 376, 376 (1) (i) (n), 506 of I.P.C. and under Sections 4 and 6 of Protection of Children from sexual Offences Act. His application below Exh.5 in Special Case (POCSO Act) No. 185 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Aurangabad vide order dated 06.08.2020.

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 27.3.2020. The applicant is young person having no criminal history. Learned counsel submits that as per the statement of the victim, she had joined the company of the applicant and stayed with him in one

agricultural land for entire night. Even though the applicant went to collect food from neighbour during that night, the victim remained there in the cattle shed and even after returning the applicant in the said cattle shed, the victim stayed with the applicant for entire night in the said cattle shed. The victim has neither raised any hue and cry nor complained to neighbouring agriculturists. Learned counsel submits that even thereafter on the next day morning, the victim alongwith the applicant went to another village and stayed there in the house of the sister of applicant. Learned counsel submits that it appears from the statement of victim that there was consensual sexual relations. The applicant is having 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 15 years of age and as such her consent, in any form, is immaterial. Learned A.P.P. submits that as per the police statement of the victim so also in her statement recorded under Section 164 of Cr.P.C. before the Magistrate, the victim has made allegations against the applicant about threats given and on compulsion she had joined the company of the applicant. It has also alleged that the applicant has performed sexual intercourse with her against her will. Prima facie, there is strong case against the applicant. 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, it appears that while returning from the agricultural field, the victim had gone to the field of the applicant alongwith him. Though it has been alleged that thereafter the applicant has pressed her mouth and threatened her and therefore, the victim went alongwith him, however, there were ample opportunities to the victim to raise hue and cry and complain against the applicant. It further appears that the applicant and the victim stayed in the cattle shed of the applicant for entire night. Even during that night, the applicant went to neighbour's agricultural land for bringing food, though the victim had an opportunity to flee away, however, she remained in the said cattle shed. In view of the same, it appears that there was consensual sexual relations between the victim and the applicant. Even in the morning, the victim alongwith the applicant went towards another village where the sister of the applicant resides. 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. Hence the following order:-

O R D E R

I. Application is hereby allowed.

- II. The applicant Lalu @ Sanju s/o Bhisan Sonwane, in connection with crime No. 68 of 2020 registered with Pishor police station, District Aurangabad for the offences punishable under Sections 363, 366(A), 376, 376 (1) (i) (n), 506 of I.P.C. and under Sections 4 and 6 of Protection of Children from sexual Offences Act 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/communicate the victim, in any manner, till the conclusion of trial.
- III. Application is disposed of.

(V. K. JADHAV, J.)

rlj/