

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 BAIL APPLICATION NO. 1285 OF 2020

SHASHIKANT SHIVRAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA

.....

Advocate for Applicant : Mr. Salunke Mayur V.
APP for Respondent-State : Mr. A. A. Jagatkar

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CORAM : V. K. JADHAV, J.
DATED : 08TH DECEMBER, 2020

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No. 347 of 2019 registered with Akole Police Station, Taluka Akole, District Ahmednagar for the offence punishable under Section 363, 366, 376(2)(j), 506 of IPC. His application with similar prayer below Exhibit 5 in Special Case No. 41 of 2019 came to be rejected by the Additional Sessions Judge, Sangamner vide order dated 15.06.2020.

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

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present crime since 11.11.2019. Learned counsel submits that as per the statement of the victim, who is 17 years and 10 months old, had joined company of the applicant-accused on her own. On 25.09.2019 at about 7.00 a.m., the victim on her own left her parents' house, crossed the distance up to the bus stand situated at village Chas and joined the company of the applicant. The victim travelled with the applicant at various places and then both of them stayed at Rahimpur as husband and wife in one agricultural field. There are no allegations about any compulsion or threats. It appears from the statement of the victim that there was a love affair between them and as a result thereof, the victim had joined the company of the applicant on the said date. The victim, under the pressure of her parents, has alleged that the applicant had given her false promise of marriage and performed sexual intercourse with her. The applicant has a fixed place of residence. He is easily available for trial. The applicant is ready to abide the conditions, if imposed by this Court while enlarging him on bail. The applicant may be released on bail.

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3. Learned APP has strongly resisted the application on the ground that the victim is less than 18 years of age and as such her consent in any form is immaterial. Learned APP submits that the victim has specifically alleged that the applicant had given her false promise of marriage and therefore she had joined his company. It has been specifically alleged by the victim that against her will the applicant had performed sexual intercourse with her. Learned APP submits that it was also transpired during investigation that the victim became pregnant and thus the DNA test was carried out. Learned APP submits that the DNA test is positive and the present applicant is the biological father of the aborted fetus, as opined by the Chemical Analyser. *Prima facie* there is strong case against the applicant. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge sheet and particularly the statement of the victim, it appears that the victim has specifically stated that she had fallen in love with

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the applicant and they used to meet each other once in four/five days and it was going on since 2018. On 25.09.2019 at about 7.00 a.m., the victim went to bus stand situated at village Chas from village Veldari-Pimpaldari on foot and joined the company of the applicant. Thereafter, the applicant and the victim went to Akole by S.T. and therefrom to Sangamner. Both of them thereafter worked in the field of one Laxman Jadhav as husband and wife. Statement of the said Laxman Jadhav came to be recorded during the course of the investigation. According to him, the applicant and the victim stayed in his agricultural field and worked there as labourers voluntarily and the victim also stayed there without any compulsion. Though learned APP has pointed out about the positive DNA report, however, considering the age of understanding of the victim who was on the verge of completing 18 years of age, I am inclined to grant bail to the applicant. There is no criminal history. The applicant has a fixed place of residence. He is easily available for trial. Hence, following order.

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ORDER

I. The application is hereby allowed.

II. The applicant SHASHIKANT SHIVRAM JADHAV be released on bail in connection with Crime No. 347 of 2019 registered with Akole Police Station, Taluka Akole, District Ahmednagar for the offence punishable under Section 363, 366, 376(2)(j), 506 of IPC, on his furnishing PB. of Rs.20,000/- 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.

III. Application is accordingly disposed of.

(V. K. JADHAV, J.)

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