

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

BAIL APPLICATION NO.1388 OF 2020

Sanjay Tukaram Gaikwad

Applicant

Versus

The State of Maharashtra

Respondent

Mr.A.B.Kale, advocate for the applicant.
Mr.A.A.Jagatkar, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 02nd December, 2020.

PC :

1 The applicant – Sanjay Tukaram Gaikwad is seeking bail in connection with Crime No.I-367/2020, registered with Newasa Police Station, Tq. Newasa, District Ahmednagar, for the offences punishable under Sections 307 and 452 of the Indian Penal Code and under Section 8 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 is submitted. The applicant is in

jail, in connection with the present crime, since 11th July, 2020. The learned Counsel submits that the First Information Report came to be lodged against unknown persons. However, in the supplementary statement recorded belatedly i.e. on 11th July, 2020, the informant, for the first time, has named the present applicant. The applicant is real uncle of the informant and in all probabilities, if the alleged incident had taken place during the day time, the informant could have identified the applicant. The learned Counsel submits that in respect of another incident taken place on 21st June, 2020, present applicant and his daughter Rutuja had been to the same police station for lodging complaint against some other persons, however, the concerned Police Station has refused to register the crime and the same, therefore, has become the public issue. The learned Counsel submits that the present crime is the outcome of the said public outcry against the concerned Police Station. The learned Counsel for the applicant submits that there is no motive for the applicant for the commission of the crime. The applicant is in jail since long. The applicant is ready to abide by the conditions, including the condition not to enter within the limits of village Gidegaon (Gaikwad Vasti), Tq. Newasa, District Ahmednagar, till conclusion of the trial to avoid possibility of tampering with the prosecution evidence. 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 informant Tanuja is 11 years of age and she was

assaulted brutally when she was doing household work in the house. The learned A.P.P. submits that mother of the informant had illicit relations with the present applicant, however, later on, she had developed sexual relations with some other person. Thus, the applicant got annoyed due to this and out of revenge, assaulted the informant. The learned A.P.P. submits that informant Tanuja had sustained in all five injuries and out of them, three injuries are grievous and are on the vital parts of the body. The learned A.P.P. submits that the daughter of the applicant, namely, Asmita opened the chain of the door from outside and, therefore, informant Tanuja, who is 11 years of age, did not disclose name of the assailant immediately. The learned A.P.P. submits that there is a belated disclosure of name of the applicant due to close relations. There is strong possibility of tampering with the prosecution evidence. At the instance of the applicant, the weapon Jambiya (big knife) came to be recovered by drawing panchanama under Section 27 of the Evidence Act. *Prima facie*, there is a strong case against the applicant. 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, it appears that the First Information Report came to be lodged against unknown persons. It is difficult to believe that the informant, who is 11 years of age, could not identify the applicant, who happened to be her real uncle when the incident had taken place during day time. On 11th July, 2020, for the

first time, by way of supplementary statement, the informant has named present applicant as an assailant. Though the weapon came to be recovered at the instance of the present applicant, however, as a matter of punishment, bail could not be refused to the applicant. There is no criminal history. Thus, by imposing certain conditions, including, directing the applicant not to enter the limits of village Gidegaon (Gaikwad Vasti), Tq. Newasa, District Ahmednagar, to avoid possibility of tampering with the prosecution evidence, I am inclined to release the applicant on bail.

6 Hence, the following order:

(i) Application is hereby allowed.

(i) The applicant - Sanjay Tukaram Gaikwad, in connection with Crime No.I-367/2020, registered with Newasa Police Station, Tq. Newasa, District Ahmednagar, for the offences punishable under Sections 307 and 452 of the Indian Penal Code and under Section 8 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 enter within the limits of village Gidegaon (Gaikwad Vasti), Tq. Newasa, District Ahmednagar, till conclusion of the trial.

7 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

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