

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 312 OF 2021

Santosh S/o Mahadev Kure

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. A.T. Jadhavar, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

Mr. P.N. Mule, Advocate for respondent No. 2.

CORAM : M.G. SEWLIKAR, J.

DATE : 27th August, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Prosecution case in brief is that the applicant is in love with the victim. It is the case of the prosecution that in the night of the incident, victim got up for urination. Since she did not return, informant searched for her. Later on, he realised that the applicant was also missing from the village. Therefore, on suspicion, he lodged report on 18th October, 2020. At the time of the incident, undisputedly, the victim was 17 years and 2 months of age. Therefore, offence under Section 363, 376(j)(n) of the Indian Penal

Code and Sections 4 and 8 of Protection of Children from Sexual Offences Act came to be registered against the applicant.

3. Heard Shri Jadhavar, learned counsel for the applicant, Shri Ghayal, learned APP for the State and Shri Mule, learned counsel for the informant.

4. Learned counsel Shri Jadhavar submits that there is no evidence of sexual intercourse between the applicant and the victim. He further submits that the victim herself had contacted the applicant and requested him to take her away as she was subjected to beating by her parents. Therefore, they left the village. He further submits that the applicant is 26 years of age. He, therefore, prayed for releasing the applicant on bail.

5. Learned APP submits that there is no evidence of history of sexual assault. He submits that there is clear evidence to show that the applicant had kidnapped the victim. The victim is minor. He, therefore, prayed for rejection of the application.

6. On perusal of the charge-sheet, it appears that the

Medical Officer has opined that there is no history of sexual assault. Undisputedly, the victim was 17 years and 2 months of age at the time of the incident. Having regard to this and having regard to the age of the applicant, I am inclined to release the applicant on bail on condition that he shall not enter the village of the victim till the conclusion of the trial. Hence, the following order:-

ORDER

- I) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount, in connection with Crime No. 0234/2020 registered with Dindurd Police Station, Dist. Beed, for the offences punishable under Sections 363, 376(j)(n) of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, on condition that he shall not enter the village of the victim and shall not in any manner try to keep any contact with the victim till the conclusion of the trial.
- lii) Application is disposed of.

(M. G. SEWLIKAR)
Judge