

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

BAIL APPLICATION NO.341 OF 2021

Arjun @ Balu s/o. Sunil @ Dada Kamble ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr.N.R.Shaikh, Advocate for applicant

Mr.Y.G.Gujrati, APP for respondent

CORAM : R.G. AVACHAT, J.

DATE : MAY 27, 2021

(Vacation Court)

PER COURT :-

Heard.

2. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 07.10.2020 in connection with Crime No.272 of 2020 registered with Ambhora Police Station, Dist.Beed, for the offences punishable under Sections 363, 366-A, 376(1)(3), 354, 354-A read with Section 34 of the Indian Penal Code and Sections 3, 4,

7 and 8 of the Protection of Children from Sexual Offences Act, 2012.

3. Heard. Perused the First Information Report (FIR).

4. The applicant is alleged to have had kidnapped a 15 years old daughter of the informant with a view to outrage her modesty. It is alleged in the FIR that on 01.10.2020, the applicant kidnapped the informant's daughter on his motorbike. It is also alleged that one Govind Shedale, co-accused, assisted the applicant in the alleged offence.

5. Learned APP urged for rejection of the application on the ground of seriousness of the offence. He took me through the FIR, the statement of the victim and the papers of investigation and ultimately, urged for rejection of the application.

6. The victim was little over 15 years of age at the relevant time. The applicant is little over 18 years of age. It appears to be an emotional

involvement. The victim appears to have stayed with the applicant at the house of his parents at Kolhapur for about three days. True, she is alleged to have been taken forcibly. There is glaring inconsistency between the victim's statement recorded by the Police Officer and one recorded under Section 164 of the Code of Criminal Procedure by learned Judicial Magistrate, First Class. In the statement under Section 164 of Cr.P.C., the victim has alleged the applicant to have touched her private part; whereas, before the Police Officer, she alleged the applicant to have inserted his finger. No other overt act is attributed to the applicant. The applicant is behind the bars since 07.10.2020. In view of the inconsistency between the two statements of the victim, the fact that the applicant is not more than 19 years of age, the charge-sheet has been filed and that the trial may not commence and conclude in the near future due to COVID pandemic, I am inclined to allow the application.

7. Hence, the following order :-

(i) The application is allowed.

(ii) The applicant be released on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount, in connection with Crime No.272 of 2020 registered with Ambhora Police Station, Dist.Beed, for the offences punishable under Sections 363, 366-A, 376(1)(3), 354, 354-A read with Section 34 of the Indian Penal Code and Sections 3, 4, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

(iv) The applicant shall report to the concerned police station as and when required.

[R.G. AVACHAT, J.]