

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 393 OF 2021

Kishor s/o Ramesh Kakade

Applicant

Versus

The State of Maharashtra

Respondent

Mr. K.N. Shermale, Advocate for the applicant.

Mr. S.P. Deshmukh, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 29th June, 2021.

PER COURT :

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

2. The informant is the victim aged 15 years and 5 months. The applicant wanted to marry the victim. However, the father of the victim was not in favour of it, the informant being a minor. The applicant and the victim used to talk on cell phone. On 2nd December, 2000, at 8.30 pm, the applicant lured the victim to marry him and suggested that she should elope with him. On 3rd December, 2020, at 2.00 am, the applicant called the informant and asked her to come near Mahalaxmi temple near the house of the victim.

Accordingly, the victim went to Mahalaxmi temple. The applicant had forceful sexual intercourse with the victim after disrobing her. The victim went with the applicant to Ahmednagar. From there he dropped her at Sangamner at 9.30 pm. He threatened her not to disclose this incident to anyone, else she would be done away with. On these allegations, the First Information Report came to be lodged on 8th December, 2020. On these allegations, offences under Section 363, 366, 376(2)(i), 506 of the Indian Penal Code and Sections 4 and 6 of Protection of Children from Sexual Offences Act came to be registered against the applicant.

3. Heard Shri Shermale, learned counsel for the applicant and Shri Deshmukh, learned APP for the State.

4. Learned counsel Shri Shermale submitted that the victim went away with the applicant of her own accord. They moved together to Ahmednagar and thereafter to Sangamner. Till that time, she did not lodge any complaint against the applicant. He submitted that there is no evidence of sexual intercourse between the applicant and the victim. He, therefore, prayed for releasing the applicant on bail.

5. Learned APP submitted that the victim is minor. Therefore, there is no question of her consent for moving with the applicant. The applicant is 29 years of age. The victim is 15 years and 5 months old. Since there is evidence of kidnapping, the applicant may not be released on bail.

6. The applicant is behind bar since 9th December, 2020. The medical evidence does not suggest that the applicant had sexual intercourse with the victim. Charge-sheet has been filed. The applicant does not have criminal antecedents. The applicant is not likely to abscond and will be available for trial. In this view of the matter, I am inclined to release the applicant on bail. Hence he following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.30,000/- (Rs. Thirty Thousand only) with one solvent surety in the like amount, in connection with Crime No. 250/2020 (Special Case No. 96/2021) registered with Shani Shinganapur Police Station, District Ahmednagar, for the offences punishable under Sections 363, 376(2)(i),

506 of the Indian Penal Code and Sections 4 and 6 of Prevention of Children from Sexual Offences Act, on condition that till conclusion of the trial he shall not keep any contact with the victim.

iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb