

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 482 OF 2021

Sachin s/o Prakash Jagtap

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.S. Gandhi, Advocate for the applicant.

Mr. R.V. Dasalkar, 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 father of the victim. The victim has speech deformity. Her age is 17 years. On 23rd December, 2020, at 1.30 pm, the wife of the informant telephonically informed the informant that the victim did not come home. In the report it was stated that the brother of the informant by name Pawan Yadav told them that the applicant had kidnapped the victim. On these allegations, offence came to be registered under Sections 363 and

366 of the Indian Penal Code. During investigation, it was transpired that the applicant had forceful sexual intercourse with the victim. Therefore, offence under Section 376 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences Act came to be added.

3. Heard Shri Gandhi, learned counsel for the applicant and Shri Dasalkar, learned APP for the State.

4. Learned counsel Shri Gandhi submitted that there is no evidence to indicate that the applicant had kidnapped the victim. He submitted that the applicant and the victim are in love with each other. He further submitted that the victim is of the age of understanding. Therefore, she was capable of understanding the consequences of her act. He submitted that there is no evidence of sexual intercourse between the applicant and the victim. He, therefore, prayed that the applicant be released on bail.

5. Learned APP submitted that the victim is 17 years of age. He submitted that since the victim is minor, the submission made on behalf of the applicant that she was a consenting party and she knew

the consequences of her act are insignificant. There is evidence of sexual violence. The Medical Officer has stated sexual intercourse cannot be denied. In this view of the matter, he submitted that the applicant may not be released on bail.

6. Charge-sheet has been filed. It is not in dispute that the victim is 17 years of age. The applicant is 21 years of age. There is nothing on record to show that the applicant has criminal antecedents. He will be available for trial. Moreover, there is nothing on record to show that the applicant committed sexual violence on the victim. No evidence is adduced by the prosecution to indicate that the hymen of the victim was ruptured. The column in that regard is kept blank by the Medical Officer. In this view of the matter and considering the fact that trial is not likely to be concluded within a reasonable time and considering the pandemic situation created by Covid 19, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) with

one solvent surety in the like amount in connection with Crime No. 303/2020 (Special (POCSO) Case No. 22/2021) registered with Talwada Police Station, District Beed, for the offences punishable under Sections 363, 366(A), 376(2)(n) of the Indian Penal Code and Sections 8 and 12 of Protection of Children from Sexual Offences Act, on condition that he shall not keep any contact with the victim till the conclusion of the trial.

iii) Application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb