

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 884 OF 2021

Ankush s/o Maroti Bontewad

Applicant

Versus

The State of Maharashtra

Respondent

Mr. B.N. Gadegaonkar, Advocate for the applicant.
Mr. V.M. Kagne, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 8th October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0017/2021 registered with Mukhed Police Station, Dist. Nanded, for the offences punishable under Sections 363, 366, 376(2)(n), 506 read with section 34 of the Indian Penal Code.

2. Facts leading to this application are that the victim is aged about 19 years and the age of the applicant is 24 years. Applicant has a milk business. According to the informant, she used to go to the place of the applicant for purchasing milk. In the month of July 2020, applicant had purchased a mobile and sim card for her and they started talking on cell phone. Applicant misrepresented

her that he would marry her. Once he had called her to a field in front of his house and had forceful sexual intercourse with her. On 16th August, 2021, at 2.00 am, the victim had gone for attending nature's call. At that time, applicant and one of his friends forcefully made the informant sit in a car of white colour. She was abducted and taken to Prakash Bontewad who is the brother of the applicant. Applicant took a room on rent in front of the house of Prakash Bontewad. Applicant and the victim used to live in that room. On 16th August, 2021, at 10.00 am, applicant had forceful sexual intercourse with the victim. Whenever the applicant used to leave the house, he used to lock the house from outside. On 8th January, 2021, the applicant left the victim at Yambura, Tq. Madanpur, Dist. Nazamabad. He had threatened her while leaving that she should not divulge anything about their physical relations to anyone otherwise she would be done away with. On these allegations First Information Report came to be lodged.

3. Heard Shri Gadegaonkar, learned counsel for the applicant and Shri Kagne, learned APP for the State.

4. Learned counsel Shri Gadegaonkar submits that the

tenor of the First Information Report clearly shows that the alleged sexual intercourse was with the consent of the victim. He submits that the applicant had taken her to a room in front of the house of Prakash Bontewad. During this period, she did not lodge any complaint against the applicant. He submits that there are statements of witnesses which show that the applicant and victim were working while living together. He, therefore, prays for allowing the application.

5. Learned APP submits that the applicant was of tender age at the time of the incident. He submits that applicant abducted the victim and had forceful sexual intercourse with her. Therefore, offence being serious, the applicant cannot be released on bail.

6. Charge-sheet is filed. Therefore, further detention of applicant does not seem to be warranted.

7. On perusal of the charge-sheet, it is revealed that statement of hotel owner by the name Sandip Gujar was recorded. He has stated that the applicant and his wife Sangita had come to his hotel. They were brought by one Devendra Disle. Applicant

introduced the victim as his wife. His statement further shows that he allotted them work on salary of Rs. 7,000/- per month to the applicant and Rs. 6,000/- per month to the victim.

8. There are statements of grand-parents of the victim. Statement of Banubi, grand-mother of the victim shows that after the victim eloped from the house of her parents, applicant and the victim started working with Sandip Gujar. Applicant was getting salary of Rs. 7,000/- per month whereas victim was getting salary of Rs.6,000/- per month. They were staying in a room on rent of Rs.2,000/- per month. Similar is the statement of Mehboob s/o Hyder Shah. Both these statements clearly show that the victim had wilfully gone with the applicant. In this view of the matter, I find substance in the argument of learned counsel for the applicant that sexual relations were consensual.

9. Applicant has roots in the society. No criminal antecedents are brought on record to show that the applicant would commit similar offence again. Applicant will be available for trial. Moreover, considering the pandemic situation created by Covid-19, trial is not likely to commence in the near future. Having regard to

this, I am inclined to allow the application. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 35,000/- (Rs.Thirty Five Thousand only) with one solvent surety in the like amount, in connection with Crime No. 0017/2021 registered with Mukhed Police Station, Dist. Nanded, for the offences punishable under Sections 363, 366,376(2)(n), 506 read with Section 34 of the Indian Penal Code, on condition that he shall not keep any contact with the victim till conclusion of the trial.
- iii) Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge