

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 BAIL APPLICATION NO.1171 OF 2021

SHARAD GAJANAN MORE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mrs. Manjushri V. Narwade
APP for Respondent – State : Mr. V. M. Kagne
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07.12.2021

ORDER :-

1. The applicant has been arrested in connection with Crime No.144 of 2021 registered with Rahuri Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 377, 201, 177 of Indian Penal Code and under Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. He has prayed for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mrs. M. V. Narwade for the applicant and learned APP Mr. V. M. Kagne for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the investigation is over and the charge-sheet is filed. The applicant is in jail since 16.02.2021. Initially the FIR has been lodged against

unknown persons that too by the present applicant. Deceased is the daughter of present applicant. That missing report was lodged by the applicant himself under Section 363 of Indian Penal Code on 13.02.2021. However, the police have now come with the case that during the course of the investigation after the statement of the wife of the present applicant was recorded, it was transpired that the applicant had taken daughter with him and then the dead body was found from nearby well and it was revealed that there was unnatural offence against the girl and, thereafter, she was murdered. Her dead body was dumped in the well in order to screen the offender. There is no direct evidence against the present applicant. Whatever has been allegedly revealed was the statement of the wife that she made allegation against the husband that he had taken the girl along with him and, thereafter, the girl went missing. In fact, the affidavit has been filed by the wife before the Special Judge stating that her husband has not committed any offence. It is stated by her that she has not made such statement before the police. Under such circumstance, the applicant deserves to be released on bail.

4. Per contra, the learned APP strongly objected the application and submitted that the daughter of the applicant was aged 4 years 6 months and the postmortem report would show that unnatural offence was

committed against her and the death is due to drowning. The applicant had come in drunken condition earlier night and after the dinner was over, as per the statement of the wife of the applicant, he had taken the girl with him around 10.00 p.m. The mother went to sleep. She awoken by the applicant asking question as to where the girl has gone. At that time, she started saying that he had taken the girl along with him. Then, it appears that the applicant made a farce of lodging report with the police, but when the fact remains that applicant had taken the girl with him when he left the house, he was knowing the said fact. Nobody had come in contact with them in between and then the postmortem report, as aforesaid, reveals unnatural offence and her death. He deserves no sympathy at all.

5. Though, in this case, the applicant had lodged the initial report of kidnapping of the girl against unknown persons, it is to be noted that, at that time itself, the statement of his wife was taken, in which she had stated that the girl was taken by the applicant along with him. The statement of further witnesses would show that after lodging the offence, when the husband and wife came back to home, there was quarrel between them and the mother was still insisting that the girl was taken by the father with him. The dead body has been found in the well and the postmortem reveal that there was unnatural offence against her

prior to her death due to drowning. There are statements of witnesses also who have seen the girl along with the applicant, as it is the story of the prosecution that after the applicant took the girl along with him, she was taken to a saloon. Definitely, offence is serious and *prima facie* indicating towards the applicant – accused and, therefore, he deserves no sympathy. The application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm