

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1251 OF 2020

Sohan Anil Mathure	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Tejas Hilage, Advocate for the Applicant.
Smt. J.S. Lohokare, APP for Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th JANUARY, 2021
[Through Video Conference]

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.40/2020 registered at Juna Rajwada Police Station, District – Kolhapur under Sections 326 and 328 of the Indian Penal Code. The Applicant was arrested on 27.1.2020 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. The FIR is lodged on the basis of statement of the victim herself. Her statement was recorded in the hospital.

Her statement mentions that she was a divorcee and had a son from her earlier marriage. She was staying in a live-in relationship with the present Applicant at Kolhapur. The Applicant was employed at Goa about six months prior to the incident. On 13.1.2020, the Applicant was in Kolhapur. They were discussing their future. The Applicant refused to marry her and he told her that he would not allow her to marry anyone else and that they should continue to stay in a live-in relationship. The discussion turned into a quarrel. It took ugly turn. It is alleged that the Applicant forced her to drink a pesticide. The victim started vomiting. The Applicant himself took her to Varute Hospital, Kolhapur. Thereafter she was removed to Apple Saraswati Multi Specialty Hospital, Kolhapur. She was admitted to that hospital till 23.1.2020. Based on that statement recorded in the hospital, this FIR was lodged and the Applicant was arrested.

3. Heard Shri Tejas Hilage, learned Counsel for the Applicant and Smt. J.S. Lohokare, learned APP for the State.

Submissions :

4. Shri Hilage submitted that the conduct of the Applicant shows that the allegations in the FIR are not true. He himself has removed the victim to the hospital for immediate treatment to save her life and, therefore, he could not be saddled with the allegation of commission of either of the offences alleged against him. He submitted that the allegations are made against the Applicant out of anger by the victim and to save herself from the possible prosecution under Section 309 of IPC. He submitted that the Applicant's mother's statement shows that the family members were also trying to mediate and to find a solution in their relationship.

5. Shri Hilage also relied on the medical papers of the hospital wherein the history given by the victim was mentioned and there were no allegations that the Applicant has forced her to drink the pesticide.

6. Learned A.P.P, on the other hand, opposed this application. She submitted that there is no reason to doubt

the version of the victim and if her version is true then the Applicant's conduct of forcing her to drink pesticide cannot be condoned. She submitted that the victim was helpless and the Applicant was taking advantage of her helplessness and, therefore, this incident has occurred.

Reasons :

7. With the assistance of both learned Counsel, I have perused the charge-sheet. As rightly submitted by Shri Hilage, the Applicant himself had taken the victim to Varute Hospital, Kolhapur to save her life. This, at this stage, can be taken into consideration in favour of the present Applicant. It is obvious that because of his efforts, her life was saved. Therefore, it is little difficult to believe that the Applicant has forced her to consume pesticide. The history given by the victim herself at the Hospital does not show that the Applicant has forced her to consume the pesticide. It only mentions that poison was ingested. No allegations were made against the Applicant at the first instance.

8. The Applicant's mother Sangita Mathure has

given a statement that she did not approve of the relationship but a meeting was arranged between the victim's brother, mother and the Applicant on 13.1.2020 at about 4:00 p.m.. Before that the incident had taken place. The statements of the victim's mother Alka Kakade and her brother Sachin Kakade did not take the prosecution case any further.

9. Considering the nature of the material in the charge-sheet, it is difficult to believe that the Applicant had forced her to consume the pesticide, particularly looking at his conduct of taking her to the hospital immediately. Therefore, the Applicant deserves to be released on bail. However, looking at the strained relationship between the Applicant and the victim, it is necessary to safeguard the victim by imposing conditions on the Applicant.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No.40/2020 registered with Juna Rajwada Police Station, District – Kolhapur, the Applicant is directed to be released on bail on

his furnishing PR bond in the sum of Rs.25,000/-
(Rupees Twenty Five Thousand Only) with one or
two sureties in the like amount.

- (ii) The Applicant shall not enter the city of Kolhapur
except for attending dates in the Court.
- (iii) The Applicant shall provide his address, where he
intends to reside after his release on bail. He shall
provide such address to the investigating officer and
on every occasion on change of address, he shall
promptly inform the same to the investigating
officer.
- (iv) The Applicant shall not contact the victim and her
family members.
- (v) Criminal Bail Application stands disposed of
accordingly.

(SARANG V. KOTWAL, J.)