

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

CRIMINAL BAIL APPLICATION NO. 1157 OF 2020

Mallappa Basappa Mali

.... Applicant

Versus

The State of Maharashtra & Anr.

.... Respondents

Mr. Kuldeep Patil for Applicant.

Ms. P. N. Dabholkar, APP for State/Respondent.

Mr. Ranjeet Patil for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 25th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.614 of 2019 registered at Jat police station, Sangli, on 14/11/2019, under section 363, 366, 376(3), 376(2)(n) and 109 of the Indian Penal Code (for short 'IPC') and under section 3, 4, 5, 6 and 7 of the Protection of Children from Sexual Offences Act. The applicant was arrested on 14/11/2019 and since then he is in custody. The investigation is over and the

charge-sheet is already filed.

2. Heard Shri. Kuldeep Patil, learned counsel for the applicant, Ms. Pallavi Dabholkar, learned APP for the State and Shri. Ranjeet Patil, learned counsel for the Respondent No.2.

3. Pursuant to the notice issued to the respondent No.2, who is the original first informant, he is appearing through his counsel, therefore, he is also heard.

4. The First Information Report (for short 'F.I.R.') is lodged by the Respondent No.2. Initially, the F.I.R. was lodged U/s.363 of IPC because his daughter aged 14 years and 4 months went missing between the night of 13/11/2019 and 14/11/2019. She had left the house with Rs.50,000/-. The informant made inquiries. He came to know that the present applicant also was missing from the village and, therefore, informant suspected that the applicant had abducted his daughter and, therefore, this F.I.R. was lodged. The prosecution case is that the victim was taken away by the applicant on a motorcycle. She was taken to Karnataka. They stayed in a lodge and in an agricultural field. During that time, there were physical relations between them and

since the victim was below 18 years of age, other sections were applied.

5. Learned counsel for the applicant submitted that, it was a love affair between the victim and the applicant. Both of them were young. The medical certificate shows that, as per medical examination, victim's age was between 16 and 17 years, though, her school record shows that she was 14 years and 6 months of age at the time of incident. Shri. Patil further submitted that the victim's statement shows that, both of them had got married and, therefore, this fact should be considered for showing leniency to the applicant.

6. Learned counsel for the Respondent No.2 invited my attention to the affidavit filed by the Respondent No.2, wherein he has mentioned that, he had no objection if the application was allowed and if the applicant was released on bail.

7. Learned APP has left the matter to the discretion of the court.

8. I have considered these submissions and, in particular, I have perused the statement of the victim. The victim has stated

that, she was knowing the applicant since three years prior to the registration of F.I.R. They had gone together from the date mentioned to Vijapur, Badami and Vhasdurga at Karnataka. They had travelled on a motorcycle and in a car. She has further stated that, she had got married with the applicant at Badami.

9. This statement clearly shows that, it was a consensual relationship. Though the victim was below 18 years of age, her medical examination shows that she was between 16 to 17 years. In this view of the matter, only for consideration of grant of bail, leniency can be shown to the present applicant who is already in custody since 14/11/2019. His further custody during the entire period of trial will not serve any purpose, particularly, taking into account the statement given by the victim and also taking into account no objection given by the Respondent No.2 for grant of bail to the applicant.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 614 of 2019 registered at Jat police station, Sangli, the applicant is directed to be released on bail on his

furnishing PR bond in the sum of Rs.30,000/-
(Rupees Thirty Thousand Only) with one or two
sureties in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)