

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

BAIL APPLICATION NO.1529 OF 2020

Lakhan Mukund Kale

.. Applicant

Versus

Senior Inspector of Police and Anr.

.. Respondents

.....
Ms.Sanjana Pardeshi i/b. Mr.Ramiz Shaikh, Advocate for the Applicant.

Mr.Y.M. Nakhwa, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 7th, 2021.

P.C. :

The applicant is arrested on 7th October, 2019 in connection with C.R.No.203 of 2019, registered with Kherwadi Police Station, Mumbai, for the offences punishable under Sections 366, 376(2)(L)(N) read with 34 of Indian Penal Code ("IPC", for short). First Information Report ("FIR", for short) was lodged by the mother of the victim on 7th October, 2019. It is alleged that on 6th October, 2019, the employer of the victim had informed the complainant that the victim had left her house under the pretext of meeting her brother and she did not return for work. The complainant had tried to search the victim. She

could not be traced. Missing complaint was lodged on 6th October, 2019. On 7th October, 2019, call was received by complainant's husband from Dadar railway station informing that their daughter is in their custody. Hence, the complainant and her son visited Dadar police station on 7th October, 2019 at 08:00 a.m. The victim was present at the station. She was accompanied by one boy. He gave his name as Lakhan Kale. He was taken into custody for interrogation. The victim is deaf and dumb. She disclosed that she had left the house of Dr.Desai under the pretext of meeting her brother. Thereafter, she met her friend. She was taken to Bandra station. From there, they went to Dadar station. Thereafter, they went to Thane station. She also disclosed that she is in love with Sachin Kurhade. They were planning to elope and perform marriage at Nashik. However, they were scarred to do so. The victim was handed over to applicant for dropping her to Bandra. However, she was taken to Badlapur by the applicant. He again brought her to Thane. Then, she was taken to the hut premises, and, subjected to sexual intercourse. During the course of investigation, statement of victim was recorded on 8th October, 2019. In her statement, she stated that on 6th October, 2019, she left the house of her employer. Her friend was waiting for her. They went to Bandra railway station, and, thereafter, to Dadar

and Thane. Subsequently, the other person who was the friend of Sachin Kurhade took her to some premises. She was sexually assaulted on several occasion in the night and she was brought from Badlapur to Dadar Station on next day at about 07:00 a.m.

2 Learned counsel for the applicant had pointed out various statements on record. It is submitted that the applicant has been falsely implicated in this case. Assuming the allegations are true, it is a case of consensual relationship. The version of the complainant is not corroborated by medical evidence. The applicant is a young boy aged about 19 years. There are no criminal antecedents against him. He is in custody from 7th October, 2019.

3 Learned APP submitted that the victim is deaf and dumb. This fact is borne out by the disability certificate, which is part of charge-sheet. The version of the victim cannot be disbelieved at this stage. She was subjected to sexual assault by the applicant. No case for grant of bail is made out.

4 From the tenor of the statements on record, it is apparent that the victim is a girl aged about 20 years. Her statement was recorded with the help of interpreter. She had given details of the incident which had occurred on 6th October,

2019 and 7th October, 2019. From her version, it can be seen that she is capable of understanding the circumstances. According to victim, she was in the company of the applicant from 6th October, 2019. She was having cellphone in her possession. She left the house of her employer under the pretext of meeting her brother. She met her boy friend. They were tried to elope and perform marriage at Nashik. She allegedly was taken to Badlapur by applicant. The version reflected in her statement is not supported by medical evidence. The medical case paper does not indicate any signs of injury of whatsoever nature on her person. Considering the factual aspect, further detention of the applicant is not necessary.

:: ORDER ::

- (i) Bail Application No.1529 of 2020, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.203 of 2019, registered with Kherwadi Police Station, Mumbai, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant is permitted to furnish provisional cash bail security of Rs.25,000/-, for a period of eight

weeks, in lieu of surety;

- (iv) Bail Application No.1529 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)