

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

BAIL APPLICATION NO. 3556 / 2019

Sitaram Maluji Gaud

.....Applicant

V/s.

The State of Maharashtra
and anr.

....Respondents

* * * *

Mr. A.R. Shaikh i/by. Mr. Raees Khan, Advocate for the
applicant.

Mr. Yogesh Dabke, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 11th March, 2021.

P.C.:

1. Applicant seeks his enlargement on bail in connection with Crime No.343/2019 registered with Vakola Police Station for the offences punishable under Sections 363, 376(2)(j) of the Indian Penal Code read with Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act” for short).

2. Applicant was arrested on 2nd August, 2019.

Investigation is over and the chargesheet has been filed against the applicant. Four accused persons are absconding.

3. On 19th July, 2019, father of the victim reported that, unknown person, kidnapped his minor daughter; whereupon offence under Section 363 of the Indian Penal Code was registered against an unknown person. In investigation, victim was traced at Rajasthan in the company of the applicant. The statement of the victim has been recorded under Section 164(5) of the Criminal Procedure Code, wherefrom it appears her affair with one Sajid was disliked by her parents. She voluntarily abandoned her parents and started living with Sajid for nine months, since after August, 2018. During this period, she had borrowed money from one, Pappubhai but was unable to pay back. She also got acquainted with one,

Rajesh through Pappubhai. It appears that, Rajesh had promised her to offer a job at Rajasthan. On 14th May, 2019 she left for Rajasthan with Rajesh and reached on 18th May, 2019. Rajesh introduced her to the applicant. Rajesh manipulated the documents, wherein he introduced/projected himself to be the father of the victim. On the basis of such documents, she was married to the applicant. In the documents, her name was changed, as, to; Anitakumari Ganesh Lalji, age 26 years. She lived with the applicant. After few days, she established contact with brother of Sajjad. Whereafter, Sajjad informed the whereabouts of the victim to her parents. Her statement shows that, she was sold by Rajesh to the applicant for consideration of Rs.1,30,000/-.

4. I have perused the marriage contract and the victim's statement recorded in the presence of the Notary at Raipur, before contracting marriage with the applicant.

5. The Birth Certificate of the victim shows, she was born on 4th July, 2002. The facts of the case are extremely disturbing but unfortunately proper investigation has not been carried out. The case, prima-facie, show the absconding accused are indulging into human trafficking.

6. Prima-facie the facts of the case and in particular the statement of the victim recorded under Section 164(2) of the Criminal Procedure Code shows, applicant did not kidnap the victim nor influenced her decision to leave the company of the parents. The applicant is in custody since August, 2019. The material on record does not indicate that, accused had knowledge that the victim was a minor while he contracted the marriage with her in May, 2019. In consideration of the facts of the case, the application is granted. The applicant is directed to be released on bail. The ordinary residence of the applicant is in the State of

Rajasthan. To secure his presence for the trial, it is necessary to impose conditions by directing him to furnish the local surety. Hence, the following order :

ORDER

(i) The applicant arrested in Crime No. 343/2019 registered with Vakola Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one local surety in the like amount.

(ii) The applicant shall report to the Investigating Officer as and when called.

(iii) The applicant shall furnish his permanent residential address in the State of Rajasthan and contact number to the Investigating Officer forthwith within a week of his release from jail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The application is accordingly allowed and disposed off.

7. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

Neeta
S.
Sawant

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signed by
Neeta S.
Sawant
Date:
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(SANDEEP K. SHINDE, J.)