

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.655 OF 2022

Mandabai w/o Balu More

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....

Mr. N.S. Ghanekar, Advocate for applicant

Mr. A.V. Deshmukh, A.P.P. for respondent No.1 – State

Mr. R.P. Patwardhan, Advocate for respondent No.2
(appointed)

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CORAM : R. G. AVACHAT, J.

DATE : 28th JULY, 2022.

PER COURT :

Heard. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.520/2021, registered at Chalisgaon Rural Police Station, District Jalgaon for the offences punishable under Sections 363, 366, 376(3), 342, 323 read with Section 34 of the Indian Penal Code and Sections 4, 5, 5(L) and 17 of the Protection of Children from Sexual Offences Act.

2. The F.I.R. has been lodged by the grandfather of the victim. The victim is stated to be little over 13 years of

age. The applicant, a 55 year old woman, resides in the neighbourhood of the informant. It is the case of the prosecution that the victim and the applicant being neighbours, had an acquaintance inter-se. Once the applicant had called the victim to her residence and introduced her accused No.1 Akshay on cell phone call. It is also the case of the prosecution that the applicant insisted the victim to have relationship with Akshay. Because of the acquaintance of the applicant, it appears that, emotional relationship was developed between the applicant and Akshay. It continued for little over one and half year. Both used to talk with each other on cell phones.

3. It is the case of the prosecution that, on 29/11/2021, the victim left house for school. On way the applicant met her. The applicant asked the victim to accompany her. A Maruti Van was stationary in the nearby. Applicant's son Akshay, Akshay's cousin Avinash and driver of the car were there. The applicant made the victim to board the car. They took her to Khadki (Pune). The victim and Akshay stayed together at Akshay's residence. During that stay, Akshay is alleged to have sexual intercourse with the victim.

4. As such, what can be gathered from the prosecution case is that it is the applicant who forced the victim, a girl of little over 13 years of age to have relationship with Akshay. The applicant is alleged to have facilitated or even kidnapped the victim with a view that both the victim and Akshay would stay together.

5. What has been averred by the victim in her statement has prima facie to be taken true, the fact is, however, that after 8 – 10 days, the victim has been restored to the custody of her parents. The applicant herein is 55 year old woman. The charge sheet has been filed. It will take time for commencement and conclusion of the trial. Therefore, although the learned A.P.P. and the learned counsel appointed to represent respondent No.2 have strong reservations to grant the bail application, for the above reasons, I am inclined to grant bail to the applicant. Hence the order :-

ORDER

(i) The Bail Application is allowed.

(ii) The applicant be released on bail in connection with Crime No.520/2021, registered at Chalisgaon Rural Police Station, District Jalgaon for the offences punishable under

Sections 363, 366, 376(3), 342, 323 read with Section 34 of the Indian Penal Code and Sections 4, 5, 5(L) and 17 of the Protection of Children from Sexual Offences Act on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence.

(iv) Fees of learned Advocate Mr. Patwardhan (appointed) is quantified at Rs.6000/- (Rupees six thousand).

**(R. G. AVACHAT)
JUDGE**

fmp/-