

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1368 OF 2022

MILIND LAXMAN DONGRE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Rajendra M. Lone
APP for Respondent No.1 : Mr. S. B. Narwade
Advocate for Respondent No.2 : Mr. Avinash R. Borulkar
...

CORAM : S. G. MEHARE, J.

DATE : 14-10-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent No.1/State and the learned counsel for victim/respondent No.2.

2. It has been alleged against the applicant that he along with the main accused forcibly took the victim from the village to Nanded and then took her in the house of Dhamma Dongre. After this allegation, the role of the applicant has been disappeared. However, in the statement of the victim under Section 164 of the Code of Criminal Procedure, she has stated that when she reached Nanded, the present applicant was present in the room and room belonging to him. Except this allegation, there is nothing against the applicant. The active role appears to have been played by the

main accused. After kidnapping the victim, the main accused called the brother of victim that he kidnapped victim/his sister. The allegations have also been levelled that he attempted to commit forceful sex with her.

3. The learned counsel for the applicant would submit that considering the role attributed to the applicant, his further detention is not required. He admitted that the main accused is his maternal brother. He is ready to co-operate with the investigation. He is labourer and earn for his livelihood at Nanded. He has been falsely implicated in the crime only because he is a paternal brother of the main accused.

4. The learned A.P.P. and the learned counsel for the respondent No.2/victim have vehemently opposed the application. They would submit that prior to the incident, the family of the main accused threatened the family of the complainant that they would lodge the report under the Scheduled Castes and the Scheduled Tribes (Prevention of *Atrocities*) Act, 1989 [here-in-after, referred to as 'the Atrocities Act', for the sake brevity] against them. The main accused had openly threatened them that he would kidnap the victim. Lastly, he kidnapped her. After lodging the present report, the family of the main accused executed their intention by lodging the report against the family of the victim under the Atrocities Act. It is sheer misuse of the law. Rather,

the arrogance of the main accused shows that under the cover of protection under the Atrocities Act, he has committed the serious crime. The applicant was always assisting main accused. He has played the active role in kidnapping the victim, who was the minor. The victim and his family have an apprehension of threats at the hands of the applicant also. Considering the seriousness of the offences, the applicant may not be released on bail.

5. Perused the papers. There appears a small contradiction as regards the role attributed to the applicant in kidnapping. The record reveals that after the allegations of kidnapping from village, the applicant's role has been disappeared. The allegations have been levelled against the applicant that he along with the co-accused kidnapped the victim. It also reveals that the main accused was forcing the family of the victim to allow him to marry the victim. Victim's family was opposing him as they were belonging to the different castes. Immediately after the incident, next day, the victim was found at the Railway Station Nanded. She has given the statement against the accused. The applicant is 29 years old. He is a daily wager at Nanded. There are no allegations of causing any injury to the victim. In view of the allegations levelled against him, it would be inappropriate to keep him behind the bars. However, certain stringent conditions may be imposed on the applicant and his family. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant Milind s/o. Laxman Dongre be released on bail, on furnishing PB and SB of Rs.20,000/- with one solvent surety of the like amount, in C.R.No.100 of 2022 registered with Bhokar Police Station, District Nanded, for the offences punishable under Sections 363, 376(1) read with Section 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, on the conditions that;
 - (a) He shall not to enter village Savargaon Met, Taluka Bhokar, District Nanded, till the conclusion of the trial,
 - (b) He shall not contact the victim or any witness and even the other co-accused and his relative in any manner or mode till the conclusion of the trial,
 - (c) He shall attend the trial on every effective hearing and shall not attempt to protract the trial,
 - (d) If he leaves the town, he should intimate the police about the place of his residence with address,
 - (e) If his residential address is changed, he shall immediately inform his new address to the police as well as the concerned Additional Sessions Court, Bhokar, District Nanded.
- iii) Bail before the learned trial Court.

**(S. G. MEHARE)
JUDGE**