

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1404 OF 2022

Shubham Arjun Khapre

.... Applicant

Versus

The State of Maharashtra
and others

.... Respondents

....

Mr. Manikrao L. Wankhede, Advocate for the Applicant
Mr. V.S. Badakh, APP for Respondent Nos. 1 and 2 – State
Mr. B.S. Dhawale, Advocate for Respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 07th December, 2022

ORDER :

1. The applicant apprehends his arrest in connection with Crime No.0293 of 2022 registered with Mukundwadi Police Station, Aurangabad for the offence punishable under sections 363 of the Indian Penal Code. It appears that, subsequently, in the said crime, Section 376(2)(n) of the Indian Penal Code and sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, were added.

2. Mother of victim has lodged the FIR that her minor daughter studying in 11th standard was enticed and kidnapped by some unknown person on 28/08/2022. On 29/08/2022 at 09.00 a.m., the victim called her from unknown phone number and informed that she is marrying with one boy. The informant told her to return home, and her marriage will be performed with the same boy. Accordingly, the victim was brought home. She told that in the fit of anger, she had left house and stayed at CIDCO bus stand, throughout the night. On the next day, when victim was taken in confidence, she disclosed that she had gone with the applicant, and though she refused to marry with him, the applicant has ravished her. On the basis of the said statement, sections 366, 376(2)(n), 354 (B) and 506 of the Indian Penal Code and section 4, 6, 8, 12 of the Protection of Children from Sexual Offences (POCSO) Act, were added in the offence.

3. Heard the learned advocate for the applicant, learned Additional Public Prosecutor for the respondent – State and the learned advocate representing respondent No.3. Perused the investigation papers.

4. Charge-sheet is filed in the present crime on 28/08/2022 and the case is numbered as Special Case No.348 of 2022. In her statement, victim has stated that on 28/08/2022, she had gone to *Ketli* Garden, N-3 at 12.00 noon and sat there till evening, and thereafter went to CIDCO bus stand and stayed there throughout the night. In the morning on 29/08/2022, she called her mother from the mobile of a passenger and informed her that she wants to marry the applicant. Her mother assured her that, her marriage will be performed with the applicant, but insisted that she should come home. Accordingly, the victim went home. She has further stated that since she was talking with applicant, her mother used to scold her. Therefore, she on her own had left home and went to *Ketli* Garden and thereafter to CIDCO bus stand, and nobody kidnapped her, and she has no complaint against anybody.

5. From the above, *prima facie*, there appears substance in the contention of the applicant that, there was love affair between the applicant and the victim.

6. The learned Additional Public Prosecutor submits that another FIR is lodged by the informant at Crime No.307 of

2022 with the same police station under section 363 of the Indian Penal Code on 07/09/2022 against unknown person.

7. Perusal of the papers of investigation of the said crime reveals that statement of the victim is recorded on 07/09/2022, wherein she has stated that on her own she had left the home, and her mother is pressurizing her to implicate the applicant. Therefore, she does not want to go home.

8. Learned advocate for the informant pointed out that, one more FIR is lodged by the victim, which is registered at Crime No. 411 of 2022 under section 354-D of the Indian Penal Code and section 11 and 12 the Protection of Children from Sexual Offences (POCSO) Act, wherein the victim has alleged that, the applicant had abducted her and ravished her on 28/08/2022. The applicant has continued stalking her and the applicant was given threats and is pressurizing her to marry with him.

9. In the present crime, investigation is complete and the case is numbered as Special Case. Nothing is to be recovered from the applicant. The applicant is a student. Pre-trial custodial detention of the applicant is not warranted in the facts of the present case. The application is therefore

deserves to be allowed. Hence the following order.

ORDER

- (I) The application is allowed.
- (II) In the event of arrest of the applicant in connection with Crime No.0293 of 2022 registered with Mukundwadi Police Station for the offence punishable under sections 363, 376 (2)(n) of the Indian Penal Code and sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences (POCSO) Act, the applicant shall be released on executing PB and SB of Rs.25,000/- with one surety in the like amount.
- (III) The applicant shall not enter the Mukundwadi area till the trial is over.
- (IV) The applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane