

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

13 BAIL APPLICATION NO.1637 OF 2021

Sachin S/o Shivaji Kamble
Age: 31 years, Occu.: Labour,
R/o. Satephal, Tq.Ambajogai,
Dist.Beed. ..Applicant

VERSUS

1. The State of Maharashtra
Through Police Station Georai,
Tq.Georai, Dist.Beed.
2. XYZ ..Respondents

Advocate for Applicant : Shri S.B.Bhapkar h/f. Shri S.S.Bhise
APP for Respondent No.1 : Shri G.O.Wattamwar
Advocate for Respondent No.2 : Shri Vishal A. Bagal

CORAM : M.G.SEWLIKAR, J.

DATE: 8th February, 2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.0273 of 2021, registered with Georai Police Station, District Beed, under Sections 363, 376(2)(n) of the Indian Penal Code and under Sections 4, 6, 8 of the Protection of Children from Sexual Offences (POCSO) Act.
2. Informant is the uncle of the victim aged 15 years. It is

alleged in the FIR that on 20th June, 2021 victim was not being seen. Informant, on the date of the incident, was working in brick kiln. Applicant was also working on same brick kiln. The victim was not traceable. Applicant was also not traceable. Therefore, informant grew suspicious that the applicant must have kidnapped the victim. Therefore, he lodged the report expressing his suspicion on the applicant.

3. Investigation was taken up. During the investigation, it was revealed that applicant had kidnapped the victim and they stayed at Moshi, Tq.Haveli, District Pune in rental premises. Applicant was apprehended by the Police. During the investigation, it was transpired that applicant is a married man having two kids. Accordingly, charge-sheet came to be filed against the applicant.

4. I have heard Shri S.B.Bhapkar, learned counsel holding for Shri S.S.Bhise, learned counsel for the applicant and Shri G.O.Wattamwar, learned APP for the respondent-State.

5. Learned counsel for the applicant submits that statement of the victim shows that she herself had called the applicant and she herself wanted to elope with the applicant. He submits that

victim had called the applicant on 20th June, 2021 and thereafter both of them went from place to place. He submits that victim is aged 15 years and she is in a position to understand the consequences of her act. Even then she kept the relations with the applicant. He submits that the statement of owner of landlord of the applicant also shows that victim was aware of the consequences of her act. Both of them projected themselves as husband and wife. He submits that the medical evidence does not indicate that applicant had penetrative sexual assault on the victim. He submits that charge-sheet is filed. Applicant is the sole breadwinner of the family. He has two kids. Therefore, sympathetic view be taken in favour of the applicant.

6. Charge-sheet is filed. Applicant is aged 31 years and is a married man having two kids. Victim is 15 years of age, which means she was not of the consenting age.

7. Learned APP for the respondent submits that the applicant had committed similar offence vide Crime No.115 of 2019 under Sections 363, 376, 506 read with Section 34 of the Indian Penal Code.

8. It appears that after he was released on bail, applicant

committed another offence. Medical Officer has opined that sexual intercourse cannot be ruled out. Having regard to the age of the victim, age of the applicant and his marital status, I am not inclined to release the applicant on bail. Hence, the order;

ORDER

- (i) Bail Application stands rejected.

- (ii) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**(M.G.SEWLIKAR)
JUDGE**

SPT