

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3436 OF 2021

KARTIK MADHUKAR GHADAGE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA AND ANR.)...RESPONDENTS

Mr.Shriram S. Chaudhari, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

Mr.Madan Gupta, Advocate for the Respondent No.2.

CORAM : V. G. BISHT, J.

**RESERVED ON : 10th DECEMBER 2021
PRONOUNCED ON : 20th JANUARY 2022**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.326 of 2020 registered with Police Station Pandharpur Gramin, Pandharpur, Solapur, for offences punishable under Section 376, 376(3) and 363 of the Indian Penal Code (IPC) and

Section 3(a), 4, 16 and 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 Informant is grandfather of victim, who is a minor. On 26th November 2020, at about 12.30 a.m., when the informant got awake, he found victim missing from the house. Accordingly, he lodged report against the applicant on the ground of suspicion and alleged therein that the applicant had kidnapped the victim, a minor, from his lawful guardianship and accordingly lodged First Information Report (FIR) on 26th November 2020. It appears that his supplementary statement was again recorded on 1st December 2020 as the applicant and victim were brought from Ratnagiri by the police.

3 Mr. Shriram Chaudhari, learned counsel for the applicant, submits that there was love affair between the applicant and the victim and in order to substantiate the same, invited my attention to statement of victim at page 33 of the compilation. The learned counsel also invited my attention to

the Medical Certificate wherein the history was given by the victim. Having regard to the circumstances and the fact that investigation is completed and charge-sheet has been filed, no purpose would be served by keeping the applicant behind the bars. Moreover, the applicant is only 21 years old, pursuing his studies and on this ground also a lenient view deserves to be taken against him, urged learned counsel.

4 Smt.Anamika Malhotra, learned APP, on the other hand, vehemently opposed the submissions by contending that at the relevant time the victim was only 12 years 6 months old and having regard to the seriousness of offence, the applicant does not deserve to be released on bail.

5 Mr.Madan Gupta, learned counsel for the informant - grandfather, has supported the submissions of learned APP and contended that there being no merit in the application, the same is liable to be rejected.

6 Perused the investigation papers.

7 Statement of victim is on record. According to her, she was in love with the applicant and therefore both of them had decided to run away and perform marriage. Accordingly, she on her own accompanied the applicant and went to Kolhapur and from there to Ratnagiri, where they resided in a rental house. They had physical relations and ultimately they were apprehended by the police.

8 I have also gone through the Medical Certificate wherein the victim stated that she went on her own along with the applicant and had also consented for sexual relation.

9 Admittedly, there is Birth Certificate also on record which shows her date of birth as 25th April 2008. This shows that on the date of elopement she was 12 years 7 months. However, the circumstances appearing on record and as also the statement of victim would go to show that the victim was fully aware of the

consequences of her elopement with the applicant. However, that cannot be a justification for the act done by the applicant, but at the same time, it must be borne in mind that the applicant is only 21 years old and is a student. There are no criminal antecedents. Investigation is over and charge-sheet has been filed. In such circumstances, keeping the applicant behind the bar for a prolonged period would jeopardize his future.

10 In view of above, I am inclined to allow the application. Hence, I pass the following order :

ORDER

- (i) Applicant – Kartik Madhukar Ghadage shall be released on bail in Crime No.326 of 2020 registered with Police Station Pandharpur Gramin, Pandharpur, Solapur, on his executing PR.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.

- (iii) The applicant shall attend the concerned police station once in a month on every first Monday in between 11.00 a.m. to 2.00 p.m. till the Charge is framed.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)