

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1583 OF 2023

Ravindra s/o. Digambar Shinde
Age 21 years, Occu. Agri.,
R/o. Bazartal, Kashti, Tq. Shrigonda,
Dist. Ahmednagar

.. Applicant
(Original Accused)

Versus

1. The State of Maharashtra
Through Police Station Officer,
Shrigonda Police Station,
Tq. Shrigonda, Dist. Ahmednagar

2. XYZ .. Respondents

Mr. Rahul R. Karpe, Advocate for Applicant;
Mr. S. P. Tiwari, APP for Respondent No.1/State :
Ms. Yugandhara Abhijit Namde holding for Mr. Devdatta P. Palodkar
Advocate for Respondent No.2/victim

CORAM : S. G. MEHARE, J.

DATE : 19-10-2023

PER COURT :-

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

2. Applicant is seeking bail in C.R.No.0286 of 2023 registered with Police Station Shrigonda, District Ahmednagar, for the offences punishable under Sections 363, 366, 376(2)(n) of the

Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

3. The accused was 21 years old and the victim was 17 years 4 months old at the time of the incident. The victim was a college going and the accused was running rickshaw. Both were residents of the same village.

4. It has been alleged against the accused that he had exchanged his phone number with the victim for rickshaw when bus does not operate. The statement of the victim categorically reveals that they were talking on phone. However, her mother learnt about their talks on phone. Therefore, her mother and relatives convinced her that the accused is a man of criminal nature, so she should not talk to him. Then she stopped talking to him.

5. The incident happened on 08.03.2023. She was appearing for XIIth standard Board Examination. Her center was at Shrigonda. That day, her mother also with her at the examination center. After the examination paper was over, the accused intercepted her in the ground of the College and forced her to sit on his motorbike. When she denied, he threatened to kill her and her mother. So under the threats, she sat on the motorbike. The accused took her to one village in one house. A family was residing in that house. On that day, as alleged accused did forceful sex with her. On the

next day also, she requested him to leave her at home, but the accused denied. She was again threatened. He again did forceful sex with her. He did sex with her till 10.03.2023. On 11.03.2023, her relatives with police reached to that place and they were taken. On the above premise, the accused has been arraigned as an accused and arrested on 12.03.2023.

6. The learned counsel for the applicant has vehemently argued that it was purely a love affair. The family of the relatives of the victim were opposing their relationship, but the victim was interested in the applicant. She voluntarily went with the applicant. There was no forcible sex as alleged. She was never threatened. She was in advancing age and able to take appropriate decisions. When she was taken from College, she had an occasion to give a call to her mother. There were many students in the College. It was the best opportunity for her to save herself from the accused, but her silence speaks a lot. She was forced to give a false statement against him. There are no antecedents against the applicant. Due to her family opposed, he is languishing in jail for more than seven months. The investigation has been completed. Nothing is to be recovered from the applicant.

7. Per contra, the learned counsel for the victim has vehemently argued that the statement of the victim is specific,

under which circumstances she was required to go with the applicant from the College. She was threatened to kill. There is no male member in her family; hence, under an apprehension, she went with him. He did forceful sex with her without her consent. She was a minor girl, having no knowledge of worldly affairs and she fell prey to the threats of the accused. Her allegations are supported with the medical evidence, because, it was a clear case of kidnapping, wrongful confinement and forcible sexual assault. Both are residents of the same village. The victim and her family have an apprehension at the hands of the accused. The offence is grave. The learned Additional Sessions Judge, Shrigonda has correctly declined the bail. Prima facie evidence is there against the applicant. He may not be released on bail.

8. The cases of similar nature are mushrooming day by day. A girl of above 17 years cannot be considered a weak girl. Her statement reveals that she was in contact with the applicant. But, when her mother learnt, the mess created. The fact that mother was with her on the day of the incident at the examination center speaks a lot. That mother had no confidence about her that she did not contact the accused. Exactly, it resulted in fleeing away with the accused. Considering the place where from she was allegedly kidnapped, she had an opportunity to ask for help to the number of students, teachers and even police, they are deputed at the examination center. But, she did not raise the voice. The

way in which she went with the accused reveals that she did not resist, but since the police reached where they were residing, she was given a statement as mentioned above. The victim was advanced age knowing well the consequences of acts she was doing. The possibility of family pressure on her maintaining relationship may not be ruled out. The applicant is also young boy of 21, having no antecedents to his discredit. In such circumstances, it would be unjustifiable to keep him behind bar for no purpose. The apprehension expressed by the learned counsel for the victim of threats and danger at the hands of accused, may be guarded by imposing certain conditions. In view of the facts of the case, the Court is of the view that this is a fit case to exercise discretion under Section 439 of the Code of Criminal Procedure. Hence, the following order:-

- i) The application is allowed.
- ii) Applicant Ravindra s/o. Digambar Shinde be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall not contact the victim and her family members till conclusion of the trial;
 - (b) He shall not tamper with the prosecution witnesses;
 - (c) He shall stay away for two months from his village from the date of his release.

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