

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3490 OF 2022

Swapnil Sanjay Jadhav

.... Applicant

Versus

The State of Maharashtra and anr.

.... Respondents

Mr. Vaibhav R. Gaikwad, Advocate for the Applicant.

Mr. A. A. Palkar, APP for Respondent-State.

Ms. Gargi Joshi, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.28 of 2022 registered with Dahiwadi Police Station for offences punishable under Sections 363, 366-A, 511, 452, 354-A, 354-D, 143, 147, 148, 149 and 506 of Indian Penal Code, 1860 and Sections 11 and 12 of POCSO Act.

2. It is prosecution's case that applicant was intimidating the complainant and molesting her. Complainant had informed the acts of the applicant to her mother. Hence, her mother was not allowing her to go out of the house. On 1st February 2022, when complainant was present in her house along with her family members, around 9.30 p.m. applicant along with four unknown persons barged in their house and tried to take

the complainant with them in their four wheeler vehicle. At that time, applicant and four unknown persons assaulted the family members of the complainant with wooden sticks. Applicant also molested the complainant.

3. It is the contention of learned counsel for applicant that applicant is behind bar for more than 18 months. Applicant has been falsely implicated in this case. Complainant was not kidnapped or abducted from her house. Investigation is completed, charge-sheet has been filed, yet trial has not been started. Hence, requested to allow the application.

4. Learned counsel for respondent No.2 submitted that at the time of incident, complainant's age was 16 years. Applicant was molesting and intimidating her. On the day of incident, applicant and his accomplice entered the house of complainant and tried to abduct her in their vehicle. They also assaulted the family members of the complainant and applicant molested the complainant. There is prima facie case against the applicant. Hence, requested to reject the application.

5. Learned APP reiterated the submissions of respondent No.2.

6. I have heard all learned counsel, perused the FIR and charge-sheet.

It is alleged that applicant along with four unknown persons

tried to kidnap the complainant from her house and applicant also molested the complainant. The maximum punishment for the offences committed under Section 354-A and 354-B is three years and for kidnapping up to seven years. Applicant is behind bar for more than eighteen months. It appears that applicant had not kidnapped the complainant. It was an attempt to kidnap. Investigation is completed and charge-sheet has been filed. It may take time to conclude the trial. Keeping applicant behind bar would amount to pre-trial conviction.

7. Considering the above facts, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.28 of 2022 registered with Dahiwadi Police Station on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not enter the area of Shingnapur, District-Satara, where the complainant and witnesses reside till the evidence of complainant is recorded.

(v) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)