

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 963 OF 2024

Sunil Pralhad Barde

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Sapkal Sandip R

APP for Respondent/State : Ms. S.S. Joshi

Advocate for Respondent No.2 : Mr. Jadhav Kiran D. (Appointed
through legal Aid) through V.C.

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CORAM : S.G. MEHARE, J.

DATED : JULY 18, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.543 of 2023 registered with Loni Police Station, District Ahmednagar for the offence punishable under Sections 363, 366, 376(2)(n)(k), 342, 506 r/w 34 of the Indian Penal Code and Sections 4, 6 and 8 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO Act' for short).
3. The alleged incident happened on 28.08.2023 and the statement of the victim was recorded first time on 09.10.2023. Her statement reveals that she was kidnapped by the applicant and his uncle. Thereafter, she was taken to one house and kept there for five days. Thereafter, she resided near a temple. She was taken to the

relatives of the applicant. She also resided there. The overall facts of the case reveals that she was with the applicant for more than one and a half month. Considering the places where she was kept, she had ample opportunity to flee away or make a complaint against the applicant. The applicant and she were doing work together. She never resisted the applicant. She speaks a lot about the incident. She was around 17 years old at the time of the incident. Her conduct itself shows that something is hidden.

4. Learned counsel for the victim would submit that the victim was minor as defined under the POCSO Act. Therefore, presumption lies against the applicant. She was not able to take appropriate decision. Since she was threatened, she did not dare to cry and resist the applicant. The learned APP added that she was pregnant of six months. The applicant was married having two children. So, there is great possibility of threats which would not courage her to resist the applicant.

5. The facts discussed above reveals that the victim had opportunities to resist the applicant, make complaints against him and to flee away from his custody. The conduct of the applicant reflects the possibility of consensus affair cannot be ruled out. Considering the age of the victim, she seems to be able to take appropriate decision about her life. In view of the facts and circumstances of the case, further detention of the applicant would serve no purpose.

However, the apprehension of tampering with the prosecution witnesses may be guarded by imposing certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Sunil Pralhad Barde, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;
 - (a) The applicant shall not tamper with the prosecution witnesses and shall attend the trial on each and every date.
 - (b) The applicant shall not contact the victim in any mode or manner till the conclusion of the trial.
 - (c) The applicant shall not enter Village Pimpri Lokai Shivar, Taluka Rahata, District Ahmednagar till the conclusion of the trial.
- (iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

(S.G. MEHARE, J.)