



**IN THE COURT OF ADDITIONAL SESSIONS
JUDGE AT PANVEL, DISTRICT- RAIGAD**

SPECIAL CASE NO.177/2024

The State of Maharashtra

--- Prosecution

Vs.

Abdulla Mukul Gain

--- Accused

Corum - Santosh C. Shinde

Date - 6th February 2025

Appearance-

Ld. advocate Smt. Milka Gharat for accused

Ld. Addl. P. P. Mr. Rajendra Yerunkar for the State of Maharashtra.

Order below exh.2

1. This application is filed by accused for regular bail.
2. Say of State of Maharashtra, victim & Investigation Officer was called upon. Say is filed at exh.3 and application is strongly objected.
3. Heard Ld. advocate Smt. Milka Gharat for accused, Ld. Addl. P. P. Mr. Rajendra Yerunkar for State & victim in person.

4. Advocate for accused submitted that FIR is registered against unknown person. Victim was in love with accused. She herself had left the house for family reasons. She has sufficient understanding. There is no eye witness. Accused was not aware about the age of victim. Investigation is completed. Charge-sheet is filed. There is no reason to keep accused behind bars.
5. Addl. P. P submitted that accused is resident of West Bengal. Victim is minor. Her consent is not material. Accused had taken victim from custody of her parents. Offence is serious. If released on bail, accused may abscond. There is sufficient evidence against accused. Prosecution is ready to expedite the trial.
6. Perused charge-sheet.
7. FIR is registered by the father of victim. FIR shows that victim was taking education in another district and on 21st August 2024, she had come at her parents home. On 22nd August 2024, she was not found in the house, therefore search was taken but she was not found. Thereafter, FIR is registered for kidnapping.
8. During investigation, it was revealed that victim is with accused at Calcutta, therefore victim & accused were brought back. Statement of victim was recorded by police and her statement shows that she is familiar with accused since last six years. As per victim, she is in love with accused and in the month of September 2022, accused committed sexual intercourse with her. As per victim in the month of

June 2024, again there was sexual intercourse between them. Statement of victim shows that she herself had left the house. Victim has not stated that accused committed forcible sexual intercourse.

9. Victim is not major, therefore consent of victim is immaterial but if age of victim & her statement is considered then it can be inferred that she has sufficient understanding of her acts. Statement of victim recorded u/s.183 of the BNSS also shows that she has left her house for family reasons.
10. Accused was arrested on 8th September 2024 and since then he is behind bars. Only for reason that accused is resident of West Bengal, his bail application cannot be rejected. Charge-sheet is filed. No recovery or discovery is to be made. Bail is rule and jail is exception. Object of bail cannot be ignored. Bail cannot be withheld as punishment. Accused cannot be kept behind bars for indefinite period as it will take time to commence & conclude the trial. By imposing certain conditions bail can be granted to accused. As a result, I pass the following order.

ORDER

1. Application is allowed.
2. Accused Abdulla Mukul Gain be released on furnishing P.B & S.B of Rs. 20,000/- (Rupees Twenty Thousand) with one or two solvent surety in like amount in the crime No.308/2024 registered at Kalamboli Police Station, Navi Mumbai for offences punishable u/s.137 (2) of BNS, u/s.376(2) (n), 376(3) of the IPC and u/s.4, 6 of the

Protection of Children from Sexual Offences Act, 2012, if he is not required in any other offence.

3. Accused on first Sunday of alternate month between 10.00 AM to 12.00 PM shall mark his presence at Kalamboli Police Station, Navi Mumbai till further orders.
4. Accused shall not leave India without previous permission of the Court.
5. Accused shall not, directly & indirectly, make any inducement, threat or promise to any person acquainted with facts & circumstances of case so as to dissuade him from disclosing such facts to the police & Court.
6. Accused shall furnish his permanent & temporary residential proof, valid e-mail ID and mobile number.
7. Registry is directed to inform accused about this order by e-mail.

(Application is disposed of accordingly)

Sd/-

Panvel
Date: - 06/02/2025

(S. C. Shinde)
Addl. Sessions Judge
Panvel, Dist.-Raigad