



R.B.A. No. 251/2022
Ajay Jadhav X State
MHBU11-000771-2022

ORDER BELOW EXH. 01

1. The applicant Ajay @ Aniket Prakash Jadhav, has moved the present application for bail under section 439 of Cr.P.C in Crime No. 178/2022 of Dhamangaon Badhe Police Station for the offence punishable under section 376, 452, 323 of the Indian Penal Code and Sec. 4 of the Prevention of Children from Sexual Offences Act, 2012.
2. Investigating Officer has filed his say at Exh. 06 through Ld. S.P.P. and resisted the bail application. Though informant is served with notice, no one appeared on behalf of informant/victim.
3. Heard learned Advocate Shri. S.S. More for applicant and learned S.P.P. Shri. V.M. Bapat for prosecution.
4. Learned Advocate for applicant/accused submitted that, this is second bail application after charge-sheet. However, the application is tenable as there is a change in circumstances. In respect of maintainability of application Ld. Advocate of applicant relied on observations of Hon'ble Bombay High Court in the case of Manika Namdeorao Bhosale V/s. The State

of Maharashtra, Bail application No. 1372 of 2018

wherein Hon'ble High Court held that, opportunity needs to be given to the applicant to argue their case on merit, if it is the contentions of the applicant that, the documents now filed on record were not filed along with previous bail application and the same are useful for his release on bail.

5. He further submits that, in previous application accused was in prison and the relatives did not gave relevant information to the previous advocate and therefore, he failed to bring into the notice of this Court that, the relationship between present applicant and informant if any were consensual in nature. There are several photographs of victim and accused which shows that, there is love affair between them and F.I.R. is filed only due to the pressure by the family members. Victim is more than 16 years old and attended age of maturity and understanding. To show the consensual relationship Ld. Advocate for accused relied on the photographs of victim and accused together which are sufficient to show the consensual love relationship between them.
6. He further submits that, accused is teenager of only

21 years old and student. If bail is refused, his entire career will affect adversely. He further submits that, there is no antecedent of accused. He relied on **Sunil Mahadev Patil vs. The State of Maharashtra, 2015 CJ (Bom) 1621.** He prayed for bail.

7. In reply, after perusal of photographs on record Ld. S.P.P. fairly submitted that, appliation may be granted on stringent conditions.
8. In the case of **Sunil Mahadev (supra)**, the Hon'ble High court observed that,

"10. The offence of rape can be distinguished on the basis of the intention of the accused. There are incidents of rapes committed by gang like the case of Nirbhaya or Maya Thagi or Mathura which cannot be forgotten by Indian Society. So also rape committed in a savage manner or repeatedly by a single accused. There are some instances of rape which take place as a man wants to satisfy his lust and animal within him overpowers his reason. There are instances of rape where a man and a woman both are in love with each other and get involved into sexual relationship due to either physical or psychological need and in such type of rape, there is no violence which exists in other types of rape.

11. Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sects with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers have considered the age of 15 as a age of consent when the marriage is performed. Taking into consideration this background, the trial Judge has to pass an order of bail in such cases."

9. Perused the application, documents, photographs,

and say filed by I.O. It appears that, victim is more than 16 years old, attended the age of maturity. In this case, the accused is of 21 years old only. After perusal of photographs, it appears that, there is love relationship between applicant/accused and victim. At the time of hearing of previous application there was no submissions of consensual relationship or photographs on record. Investigation in this crime is completed and charge-sheet is filed. There is no possibility of absconding. The reason stated in say of Investigating Officer is not sufficient to reject the bail application. So in the light of observation of Hon'ble High Court in the case of Sunil Mahadev Patil (supra), considering all these facts and circumstances, I am of the view that this is a fit case to grant bail. Hence, in result, I proceed to pass following order:-

ORDER

1. Application Exh. 1 is allowed.
2. Applicant/accused Ajay @ Aniket Prakash Jadhav in Crime No. 178/2022 of Dhamangaon Badhe Police Station for the offence punishable under section 376,

452, 323 of the Indian Penal Code and Sec. 4 of the Prevention of Children from Sexual Offences Act, 2012, be released on bail on his executing P.R. bond of Rs. 30,000/- (In words Rupees Thirty Thousand only) with surety in the like amount on conditions that :-

- 2.1. The applicant/accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any Police Officer and not to pressurize any prosecution witness.
- 2.2. The applicant/accused shall not contact victim by any means.
- 2.3. The applicant/accused shall provide two copies of his permanent address proof.
- 2.4. The applicant/accused shall not leave India without permission of the Court.

Malkapur.

Date - 01/11/2022.

(Prakash R. Kadam)
Special Judge (P.O.C.S.O. Act),
Malkapur.

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C.N.R. No. MHBU11-000771-2022

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Ajay Jadhav X State
ORDER BELOW EXH. 1

Certificate

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of Court : Special Judge (P.O.C.S.O. Act), Malkapur.

Name of Steno. : Miss H.D. Chaudhari.