



R.B.A. No. 234/2022
Ram Rathod X State
MHBU11-000740-2022

ORDER BELOW EXH. 01

1. The applicant Ram Pralhad Rathod has moved the present application for bail under section 439 of Cr.P.C in Crime No. 134/2022, registered with Dhamangaon Badhe Police Station for the offence punishable under sections 376(2)(N) of the Indian Penal Code, Section 4 of the Protection of Children from Sexeual Offences Act, 2012 and Section 3(1)(w) (i)(ii), 3(2)(v) of the Scheduled Casts and the Scheduled Tribes (Prevention of Atrocities Act), 1989. This is second bail application, but first application after charge-sheet.
2. It is alleged by the prosecution that, present applicant/accused committed repeated rape on victim age about 12 years 8 months belongs to Scheduled Caste, and cause her pregnant and therefore, F.I.R. came to be registered by father of victim under section 376(2)(N) of I.P.C., Section 4 of P.O.C.S.O. Act and Section 3(1)(w)(i)(ii), 3(2)(v) of the S.C. &

S.T. Act. Accused is arrested on 03/06/2022. Hence, this bail application.

3. Investigating Officer has filed his say at Exh.7 through Ld. S.P.P. and resisted the application. Victim is present today with her father and given no objection to grant bail.
4. Heard learned Advocate Shri. Amol Ballal for applicant/accused, Ld. S.P.P. Shri. V. M. Bapat for prosecution and victim in person.
5. Learned Advocate for applicant/accused submitted that, false case is registered against the present applicant/accused. He further submits that investigation in this crime is completed and charge-sheet is filed. No purpose will be served by keeping present applicant/accused behind bars. He further submits that applicant is ready to abide by any condition which may be put by the Court. Applicant is belongs to poor family and only earning member of their family. He prayed for bail.

6. Learned S.P.P. submitted that, the offence is of serious nature. The victim is a minor, aged about 12 years 8 months only. He further submits that victim categorically narrated the repeated incidence of penetration and pregnancy. He further submits that victim has no reason to falsely implicate present applicant/accused in a serious offence like rape. He further submits that, present applicant/accused and victim are belonging to same area and therefore there is strong possibility that he may tamper the witnesses and evidence if released on bail. Hence, he prayed for rejection of bail application.
7. The father of victim stated that, he do not have any objection to grant bail with condition that, he shall not enter into village. When Court inquired with him, why he is giving no objection, whether there is any pressure by any one ? He answered that, villagers insisting to give no objection therefore, he is giving the same.
8. Perused bail application and say filed by I.O. The

statement of victim discloses that, repeated forceful penetration is done by the present applicant/accused and caused her pregnancy. The age of the victim appearing from the case papers is about 12 years 8 months at the time of offence. Accused is aged about 28 years old having full maturity. The victim has no reason to falsely implicate the present applicant/accused. In the case of Anil Kumar Yadav Vs. State of Delhi (NCT), (2018) 12 SCC 129 and in the case of State of Orissa Vs. Mahimananda Mishra, (2018) 10 SCC 516 Hon'ble Supreme Court reiterated that, *“it is by now well settled that at the time of considering an application for bail, the Court must take into account certain factors such as, the existence of a prima facie case against the accused, the gravity of the allegations, position and status of the accused, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of tampering with the witnesses and obstructing the Courts as well as the criminal antecedents of the accused. It is also well settled that, the Court must not go deep into merits of*

the matter while considering an application for bail, all that means to be established from the record is the existence of a prima facie case against the accused.”

9. In this case, the allegations against applicant/ accused are serious in nature. There is strong prima facie evidence against present applicant/accused in view of statement of victim and other evidence. The circumstances shows that, there is a strong possibility of tampering of evidence, if applicant is released on bail. Hence, I am of the view that, applicant/accused is not entitled for bail. In result, I pass the following order :-

ORDER

The bail application stands rejected.

Malkapur.
Date - 14/10/2022.

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

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C.N.R. No. MHBU11-000740-2022

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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.