

ORDER BELOW EXH.1

1] Perused the application. Perused report of Assistant Superintendent Dist-Court, Pune dated 03.10.2019. Heard Advocate for accused.

2] The application is filed by accused under section 167(2) of Cr.P.C. for releasing him on bail. As per police papers, accused was arrested by police of Sahkarnagar Police Station on 29.7.2019 for the offences punishable under sections 376(2)(n), 376D, 506 of Indian Penal Code and S. 4, 8, 12 of Protection of Children from Sexual Offences Act in C.R. No.432/2019. Accused is in judicial custody since 03.8.2019. Major offence in this crime is offence punishable under section 376D of Indian Penal Code for which punishment provided is, shall not be less than 20 years but which may extend to imprisonment for life. At present statutory period of 60 days for filing charge-sheet is over. The accused is in judicial custody, for about 66 days elapsed from the date of production. From the papers it appears that there are serious allegations against this accused.

3] Report of Asst. Suptd. dated 03.10.2019 shows that charge-sheet is filed on 03.10.2019 at 3.10 pm and it is registered as Special Case No. 476/2019. Advocate of accused submitted that this application is filed at about 12.10 pm on 03.10.2019. At the time of filing this application, charge-sheet was not filed. Moreover, about period 66 days is elapsed, but charge-sheet is not filed. Hence, accused gets indefeasible right to release on bail.

4] In case in hand, as per police papers, accused was arrested on 29.7.2019 and on 30.7.2019 he was produced before the Court. For about 66 days elapsed on 03.10.2019 i.e. at the time of filing of this application. There is subsequent filing of charge-sheet on the same day on which this application is filed as report shows that charge-sheet is filed at about 3.10 pm on 03.10.2019.

5] Advocate of accused relied on provisions of Section 173 of Criminal Law Amendment Act, 2018 and submitted that in sub-section (1A) of Section 173, for an offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of Indian Penal Code, investigation shall be completed within two months. Therefore, in place of three months, period of two months is substituted. Hence, final report is to be filed in the case of rape of child within two months as per Amendment Act. If provisions of Section 173 are perused, then it is provided that investigation shall be completed within two months in aforesaid offences. As soon as it is completed, officer in charge shall forward a police report. After this amendment, there is no corresponding amendment in Section 167(2) of Code of Criminal Procedure which provides that Magistrate may authorize detention of accused person otherwise than in custody of police, beyond period of 15 days if he is satisfied that adequate grounds exists, but no Magistrate shall authorize detention of accused in custody for total period exceeding 90 days where investigation relates to offence punishable with death, imprisonment for life or imprisonment for term not less than 10 years.

6] In view of above mentioned provision under which present application is filed and due to fact that at present charge-sheet is filed, moreover as punishment provided for the offences levelled against accused is up to imprisonment for life, in view of grounds raised in the application, it is not proper to release accused on bail. Therefore, application deserves to be rejected with following order.

ORDER

Application is rejected.

Sd/-

Pune.
Date – 04.10.2019.

(R.V.Adone)
Addl.Sessions Judge, Pune.

“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno	- Arya Nikam (Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of order	- 04.10.2019.
Order signed by P.O.	- 04.10.2019.
Order uploaded on	- 05.10.2019.