

ORDER BELOW EXHIBIT-01 IN CRI.M.A.NO.235/2020.
(CNR NO.MHPA04-000603-2020)

The present application is filed under Section 439 of the Code of Criminal Procedure for grant of regular bail.

2- The learned advocate for the applicants submitted that the allegations made against both the applicants that they committed rape on the victim. But the statement of the victim was vague when given to the police and before the magistrate. She did not clarify at which date these applicants committed rape on her. Also, as per the police statement, these applicants committed rape on separate date. While, as per the statement given to the magistrate, both the applicants committed rape at same time. He further submitted that when the report was lodged, the name of applicant No.2 was not mentioned in the said report. In supplementary statement, the informant and the witnesses stated that applicant No.2 also committed rape on the victim. All these things show that these applicants were implicated falsely. The charge-sheet is filed in this matter. Therefore, presence of these applicants is not required to the police for further investigation and hence the application may be allowed.

3- The learned A.P.P submitted that the victim was a special child. She could not understand for which she could give a consent to the applicants. The applicants took disadvantage of mental status of the victim which shows that these applicants committed grave

offence. In addition to it, due to act of these applicants, the victim was pregnant. The DNA test shows that applicant No.1 is a biological father of foetus of the victim. The victim and her family is residing in a small village. If these applicants are released on bail, there are chances that they may put pressure on the witnesses. It would be difficult for the court to conduct the trial and hence the application may be rejected.

4- On perusal of record, it finds that the informant and other witnesses are not the eye witnesses of the incident. Also they did not see the victim and the applicants in one room or while entering into the room or while coming out of the room. The entire prosecution case is based on the statement of the victim given to the police and the magistrate. The statement of victim to the police and the magistrate is vague in nature. In addition to the statement of the victim, the prosecution story is based on the medical evidence and the DNA report. As per the medical evidence, the victim was pregnant during said period of rape. The DNA report shows that applicant No.1 and the victim are biological parents of the said foetus of the victim. It means, there is strong evidence present against applicant No.1. But, prima-facie there is no material present against applicant No.2. At this stage, the investigation is almost completed as the charge-sheet is filed. Therefore, presence of applicant No.2 is not required to the police for further investigation. As there is no sufficient material against applicant No.2, therefore, it cannot be said that he would put pressure on the witnesses. On the other hand, there are every chances that applicant No.1 would put pressure on the witnesses as sufficient evidence is present against applicant No.1. 

Therefore, the application of applicant No.1 is liable to be rejected and application of applicant No.2 is entitled to be allowed. Hence, the following order.

ORDER

1- The application of applicant No.1 Ramesh Arjuna Lande is rejected.

2- The application of applicant No.2 Vitthal Dattarao Ambhore is allowed and he be released on bail on his furnishing P.R. bond of Rs.30,000/-(Rupees thirty thousand) with one or two sureties in the like amount.

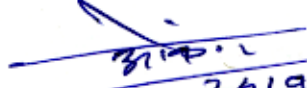
3- Applicant No.2 shall not put pressure on the witnesses directly or indirectly.

4- Applicant No.2 shall attend the court proceedings regularly and co-operate the police and the court to conduct the trial.

5- Applicant No.2 shall not visit the house of the victim directly or indirectly.

6- Bail before the magisterial court.

7- Inform the learned J.M.F.C. and concerned police station accordingly.


(Onkar R. Deshmukh)
24/9/20
I/c Additional Sessions Judge-1,
Hingoli

Date :24th September,2020.

Upon hearing Order passed by Shri Onkar R. Deshmukh, I/c Additional Sessions Judge-1, Hingoli, in Criminal Bail Application No. 235/2020 Ramesh Vs. State Under Section 439 Cr. P. C. in Cr. No. 195/2020 Police Station, Sengaon Under Section 376(2)(J), 376(2)(N), 376(2)(I), 376(d), 448,506, of IPC.

Name of Petitioner :---

- 1- Ramesh S/o Arjuna Lande,
Age 27 yrs, Occ.: Agri.
R/o. Sengaon, Tq, Sengaon Dist. Hingoli.
- 2- Vitthal S/o Dattarao Ambhore,
Age 32 yrs, Occ.: Labour.
R/o. Sengaon, Tq, Sengaon Dist. Hingoli.

Order passed below Ex.1

- 1- The application of applicant No. 1 Ramesh Arjuna Lande is rejected.
- 2- The application of applicant No.2 Vitthal Dattarao Ambhore is allowed and he be released on bail on his furnishing P.R.bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one or Two sureties in the like amount.
- 3- Applicant No.2 shall not put pressure on the witnesses directly or indirectly.
- 4- Applicant No.2 shall attend the court proceedings regularly and co-operate the police and the court to conduct the trial.
- 5- Applicant No. 2 shall not visit the house of the victim directly or indirectly.
- 6- Bail before the magisterial court.
- 7- Inform the learned J.M.F.C. and concerned police station accordingly.

Sd/-

(Onkar R. Deshmukh)
I/C Additional Sessions Judge-1,
Hingoli.

Date : 24th September, 2020.

O.No./Cri/ 1431 /2020
Additional Sessions Court, Hingoli.
Dated : 24-09-2020

- 1- Forwarded to Judicial Magistrate, First Class, Sengaon for information and necessary action
- 2- Forwarded to Police Station, Sengaon for information and necessary action.

By Order


Superintendent, 25/9
Additional Sessions Court,
Hingoli.

o/c.

