

ORDER BELOW EXH.05
(Passed on 01/12/2023)

The applicant/accused Babaji Shankar Korade, came to be arrested in Crime No.155/2022 registered with Kamshet Police Station for the offences punishable under Section 354-D of Indian Penal Code, Section 8, 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Present application has been filed under Section 439 of the Code of Criminal Procedure.

2. It is the case of the prosecution that, the complainant-victim alleged that, applicant/accused is repeatedly harassing and stalking her and was looking towards her whenever she used to do any work. Prior to one year of lodging report, when complainant-victim was washing the utensils in front of her house, applicant/accused started staring at her and when asked, he refuses by saying that she is not so beautiful, but while she was going to school, accused harassed to her by abusing and also kept her photo on DP of his WhatsApp knowing well that complainant-victim belongs to Scheduled Tribe. As the harassment was intolerable, she narrated the incident to her parents, hence, complainant proceeded to lodge the report. Therefore, on the complaint of complainant, this offence came to be registered and applicant/

accused came to be arrested on 27/09/2022 and now he is in M.C.R. Hence, the present application.

3. Ld. Advocate for the applicant/accused contended that, applicant/accused has not committed any offence and he has been falsely implicated in the present crime. There is willful delay of 01 year and 02 months for filing F.I.R. The complainant-victim and applicant/accused are neighbors and complainant-victim has made false allegations to harass him. The applicant/accused is disabled person. Practical investigation has been completed and there is no any recovery or discovery pending from the applicant/accused, hence, no custodial interrogation of present applicant/accused is at all required. If applicant/accused is released on bail, he will not tamper the prosecution evidence and witnesses and ready to abide all the conditions imposed by the Court. Lastly, prayed to release him on bail.

4. The Ld. Addl.PP and Investigating Officer has opposed the application by filing say on last page of this application and at Exh.06. The application is opposed on the ground that, offence is of serious in nature and against the society. There is prima-facie case against applicant/accused. The applicant/accused and complainant-victim are residing in same village, hence, if he is released on bail, he will tamper with the prosecution evidence and will also threaten prosecution witnesses. The applicant/accused harassed the

complainant-victim in various ways and there is danger to her life. Lastly, it prayed to reject the application.

5. The complainant-victim also appeared and filed her say at Exh.07 and strongly opposed the bail application of applicant/accused on the ground that, if he is released on bail, he will commit similar type of offence and there is threat to her and her family members. Hence, prayed to reject the bail application.

6. Heard Ld. Advocate for applicant/accused, Ld. Addl.PP for State and complainant in-person. Perused the charge-sheet. It reveals that, the applicant/accused is in custody since 27/09/2022 and investigation is almost completed and no recovery or discovery from the applicant/accused is remained pending. So further custody of applicant/accused is not required. Though the offence is serious, it is punishable with maximum imprisonment upto 05 years only. It further appears that applicant/accused is in young age and also handicapped having no parents. No purpose will be served by keeping him behind the bar. There is no criminal antecedents to the credit of the applicant/accused. It is a matter of trial that applicant/accused has committed alleged offence or not. The commencement of trial will take its own time. Therefore, as discussed above, applicant/accused needs to be release on bail by imposing certain stringent conditions and thereby purpose of prosecution will be suffice. Hence, following order :-

ORDER

1. The application Exh.05 is hereby allowed.
2. Applicant/accused Babaji Shankar Korade in Crime No.155/2022 registered with Kamshet Police Station for the offences punishable under Section 354-D of Indian Penal Code, Section 8, 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is released on his furnishing PB of Rs.50,000/- with one solvent surety in the like amount on following conditions -
 - (a) He shall fully co-operate with the Investigating Officer as and when required.
 - (b) He shall not tamper with the prosecution evidence, nor hamper the investigation, nor shall abuse his liberty by indulging in alike offence.
 - (c) Applicant/accused is hereby directed to provide his temporary as well as permanent address to the Investigating Officer.
 - (d) Applicant/accused is hereby directed not to enter in the area where victim is residing till conclusion of trial and not to contact her in any manner.

sd/--

Vadgaon Maval.
Date : 01/12/2023

(J. L. Gandhi)
Additional Sessions Judge,
Vadgaon Maval, Dist-Pune.

“I affirm that the contents of this P.D.F file Order are same word for word as per original Order.

Name of the Steno : Smt. K.S. Tambe

Stenographer (Grade I)

Court Name : Addl. Sessions Judge, Vadgaon Maval,
Dist-Pune.

Date : 01/12/2023

Order signed by presiding officer on : 01/12/2023

Order uploaded on : 02/12/2023.”