

S.T.No.181/ 2017.
State-Vrs-Pralhad.

ORDER [BELOW EX.3]
[Date 31.10.2017]

01. This is an application u/s. 439 of Cr.P.C. through which applicant/accused Pralhad Uttam Hajare is seeking regular bail.

02. Heard learned counsel for applicant and learned A.P.P. Perused the charge-sheet.

03. The applicant/accused is charge-sheeted before this Court for the offence u/s.376, 354, 323 and 506 of I.P.C. and u/s.4, 8 and 12 of POCSO Act. Allegations against the accused are such that, on the day of incident at about 03.00 to 03.30 p.m., he called the victim girl aged about 08 years at his house, outrage her modesty by pressing her chest and then committed rape on her.

04. It is the main contention of the applicant that, he is falsely implicated in the present crime. The medical examination report of the victim girl falsifies the story put forth by the prosecution. Had it been the case that, the applicant committed rape on the victim girl, the medical examination report of the victim girl could have revealed at least some lacerations, reddishness or swelling on the private part of the victim girl though complete penetration is not required. The absence of such lacerations, swelling or reddishness on the private part of the victim girl reveals that, no such incident had ever taken place. Moreover the applicant was arrested just after one day of the incident i.e. on 10-07-2017 and since than he is in jail custody. Investigation is over and charge-sheet has been filed. Statement of the victim girl is filed alongwith the charge-sheet. Clothes of the applicant as well as the victim have been sent for chemical analysis. Under such circumstances there is no likelihood of tampering with the

evidence. Still the applicant is ready to abide each and every condition whichever may be imposed.

05. The prosecution has opposed the application on the ground that, the offence is of serious in nature and punishable up to life imprisonment. Amended section of 375 of I.P.C. makes it clear that, even slight touch of private part is sufficient to complete the offence of rape. Under such circumstances, it is not the requirement of law that, there must be injury on the private part of victim girl. Though the applicant has contended that, he is falsely implicated in the present crime, he has not explained as to for what reason he has been falsely implicated. There is no reason for the mother of victim girl to lodge false report against the applicant at the risk of modesty of her daughter. As the charge-sheet has been filed, trial can be expedite.

06. I have gone through the ruling cited by learned counsel for applicant laid down in the case of Mahesh Bhimrao Jadhav-Vrs-State of Maharashtra, reported in 2015 ALL MR (Cri) 215 in which it has been held that, the accused u/s. 376 of I.P.C. can be enlarge on bail when charge-sheet is filed, statement of prosecutrix has been recorded and accused has been in custody since the date of his arrest. After going through the facts of the case, it appears that, the circumstances in the case of Mahesh Jadhav (Supra) were altogether different than the facts of the case in hand. In the case of Mahesh the victim girl was aged about 17years and accused was her school met. Both got acquainted with each other and their friendship developed into love affair which resulted into sexual relationship. However, the victim in the case in hand is aged about 08 years while the accused is aged about 26 years. The accused resides near the house of the victim girl and therefore, there is possibility of tampering with the evidence by pressurizing the victim girl and her parents. Still the fact remains that, investigation is over and charge-sheet has been filed and now there is no need of custodial introduction of the accused. Certain stringent conditions

may be imposed to prevent the applicant from pressurizing the witnesses and tampering with evidence. Hence following order :

ORDER

1. Application is allowed.
2. Applicant/accused Pralhad Uttam Hajare be released on bail in Crime No. 103/2017 of P.S. Pinjar, be released on bail on furnishing P.B. and S.B. of Rs. 25000/- alongwith one solvent surety with like amount subject to following conditions;
 - i. The applicant shall live outside the jurisdiction of the area where the victim girl resides and shall not enter their, till conclusion of trial.
 - ii. The applicant shall not try to make any contact with the victim girl or her parents at any place nor shall tamper with the evidence, in any manner.
 - iii. The applicant shall attend the Court regularly till conclusion of trial unless exempted from personal appearance.

Date : 31.10.2017.

Sd/-
[R.G.Waghmare]
Addl. Sessions Judge, Akola.

A F F I R M A T I O N

I affirm that the contents of this PDF File are same word for word as per original order.

Name of Steno : L.S.Raniwal
Court's name : District Judge-I & Additional Sessions
Judge, Akola.

Date of dictation: 31.10.2017

Signed by Presiding
Officer on : 31.10.2017

Uploaded on : 31.10.2017