

Order below Ex.31 in Special Case (POCSA) No.12/2016

Dyaneshwar Bhimrao Pawar ... Applicant
Vs

State of Maharashtra
(through Police Station Veergaon) ... Complainant.

1/- This is an application moved by the applicant /accused under section 439 of the Code of Criminal Procedure for enlarging him on bail in C.R. No. I-12/2016 of Veergaon Police Station for the offence punishable under sections 376(1) of IPC and Sections 3, 4, 5(G), 2(L) (Q), 6 & 8 of the Protection of Children from Sexual Offences Act.

2/- The applicant/accused has contended that, he is innocent and falsely implicated in this case. He is behind the bars for the period of more than one year and 18 months. He has not committed any offence. He is Karta of his family having two small children to look after. He further contended that the DNA report pertaining to the DNA Test of the boy delivered by the informant and his blood is negative one which makes out that he has no concerned with the alleged offence. He lastly prayed for allowing his application.

3/- The Ld. APP has resisted the application contending that there is no change in circumstance as his previous bail application is rejected by this Court. He lastly prayed for rejecting the application.

4/- Heard Ld. Advocate Shri A.R. Yadav for the applicant/accused and Ld. APP Shri B.M. Maher for the State.

5/- At the out-set, I would like to state that this Court has rejected previous bail application of the accused by its order dated 29/06/2017. Thereafter DNA Test report is received on 23/08/2017. Thus considering the said fact I am of the considered opinion that the receipt of DNA Report has certainly made material change in circumstance thereby entitling the accused to move this bail application. After perusing the FIR, the allegation against the accused is that he kept physical relation with the informant by making promise of marriage. As per the informant because of said physical relations, she become pregnant and she has delivered a child. It is pertinent to note that the blood samples of the Baby of the informant as well as of the informant and this accused were sent for DNA Test. The DNA Test report filed at Exh.24 has excluded this accused as the biological father of the baby of informant. Not only that the C.A. Reports are also negated. The accused is arrested on 11/02/2016. Thus he is behind the bars for the period of one year and eight months. Considering the DNA Report as well as C.A. Reports, I am of the considered opinion that the further detention of the accused behind the bars is certainly not justifiable one. Thus I conclude that the accused / applicant is entitled to bail. Accordingly, I pass following order :

ORDER

- 1] The application is hereby allowed.
- 2] The applicant/accused Dyaneshwar s/o Bhimrao Pawar, involved in C.R. No. I-12/2016 of Veergaon Police Station for the offence punishable under sections 376(1) of IPC and Sections 3,

4, 5(G), 2(L) (Q), 6 & 8 of the Protection of Children from Sexual Offences Act, he be released on bail his executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two solvent sureties in the aggregate amount.

3] The applicant/accused should not come in contact with the informant / prosecutrix.

4] Bail before Remand Court.

Sd/-

Vaijapur.
11.10.2017.

(S.B. Gaidhani)
Additional Sessions Judge,
Vaijapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	: Mohd. Shafee Mohd. Amiroddin
Court	: District Judge & Additional Sessions Judge, Vaijapur.
Date	:11/10/2017
Judgment signed by the presiding officer on	:11/10/2017
Judgment uploaded on	: 12/10/2017