

Vaijapur P.S.

Special (POCSO) Case No.57/2021
State of Maharashtra Vs. Sidharth Sanjay Pagare
(ORDER BELOW EXH.-04)
CNR No.MHAU04000718-2021

01. This is an application moved by the applicant/accused under section 439 of the Code of Criminal Procedure for enlarging him on regular bail in Crime No.I-282/2021 of Police Station Vaijapur for the offence punishable under sections 363, 366(A), 376(2)(n) of the Indian Penal Code and section 4, 6, 8, and 12 of POCSO Act.

02. Perused the grounds raised in the application, as well as, say filed at Exh.5.

03. Heard learned Advocate Shri. D.V. Gaikwad for the applicant/accused and learned APP Shri. B.M. Maher for the State.

04. It is the case of the prosecution that on 16.07.2021 the mother of victim girl lodged the report to police station Vaijapur and reported the matter that, on 15.07.2021 at about 10.00 p.m. they went to bed after meal in the night at about 3 hours she noticed that her daughter victim age about 17 years is not on her bed therefore she informed her husband and son. Thereafter they searched the victim but could not found hence she reported the matter to police. During the investigation the accused and victim were apprehended by police. The victim in her statement stated that, accused eloped her and has committed sexual intercourse with her. Therefore, offence under section 376 of I.P. Code and section 3 and 4 of POCSO Act came to be added.

05. It is submitted on behalf of the applicant that the victim in her statement categorically stated before the police that she on her own occurred left the house and accompanied the accused and sexual intercourse had happened. It is submitted that, after the investigation charge-sheet came to be filed and nothing remains to be seized from the accused. Therefore, he be released on bail.

06. The learned A.P.P. opposed the application on ground that present applicant/accused committed serious offence against a minor girl and if he released on bail, he will repeat the crime or threatened the victim. According to him, offence is serious one therefore application be rejected.

07. Considering the rival submission and material on record I found substance in the submission of learned Advocate for the applicant/accused that the victim in her statement before the police categorically stated that she had love relation with the accused and on the say of accused she accompanied him. In this matter, on recording the statement of victim and other material witnesses and on completion of investigation charge-sheet came to be filed. Nothing remains to be seized or recovered from the possession of present applicant/accused. It is submitted that, accused is a student and if he kept behind the bar his future will be spoiled. The learned counsel for the applicant placed his reliance on the reported case, reported in **LEX(BOM) 2015 8 295, Sunil Mahadev Patil Vs. State of Maharashtra.**

08. In a reported case reported in **2020 ALL MR (Cri) 1351, Anirudha Radheshyam Yadav Vs. State of**

Maharashtra, the Hon'ble Bombay High Court held and observed that -

Criminal P.C. (1973), S.439 – Protection of Children from Sexual Offences Act (2012), S.3- Bail- Grant of – Offences under POCSO Act – At the time of incident, victim was 14 years and 11 months old whereas applicant/accused was 25 years old – Evidence of victim shows that she had left home of her parents by her own will and that she had surrendered to physical desires of applicant out of her love and affection for him – Applicant had never induced and/or forced victim to leave her parents house – Though victim was minor, she had sufficient knowledge and full import of what she was doing and had only thereafter voluntarily joined applicant – Thus, applicant is entitled to be released on bail.

09. Therefore, considering the observation of Hon'ble High Court in the light of fact and circumstances of the present matter I think no purpose will be served to keep the applicant/accused behind the bar. The apprehension of prosecution can be addressed by imposing necessary condition. Hence I proceed to pass the following order.

ORDER

01. The application is allowed.
02. The applicant/accused Sidharth Sanjay Pagare involved in a Crime No. I-282/2021 of Police Station Vaijapur for the offence punishable under sections 363, 366(A) and

376(2)(n) of the Indian Penal Code and section 4, 6, 8 and 12 of POCSO Act be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the aggregate amount.

03. The applicant/accused is further directed to submit a list of at least three blood relatives with their detail residential addresses and also the addresses of their place of work with documentary proof of showing the correctness of the details produced by them.
04. The applicant/accused is also directed that he and his sureties should submit copies of at least two documents amongst their respective Passport, Pan Card, Bank Passbook, Credit Card with photograph, Ration Card, Adhar Card, Electricity Bill, Landline telephone bill, Voter I.D. Card issued by the Election Commission of India and Property Tax Register while furnishing the bail.
05. The applicant/accused shall not tamper with the prosecution evidence in any manner and shall not indulge in any type of criminal activity. If it is noticed that he involved in such type of offence the prosecution will be at liberty to move for cancellation for bail.
06. The applicant/accused shall keep himself away from the limits of area where the complainant, victim and the other witnesses are residing
07. The applicant/accused shall not change the place of residence without prior intimation to the concerned police station.
08. Any observation made in this order is made only for limited purpose of deciding this bail application and it shall not come in the way of trial during the trial.

Dt.22/09/2021.

Sd/-
(M. Mohiuddin M.A.)
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	: Dehade R.B.
Court	: Addl Sessions Judge, Vaijapur.
Date	: 22.09.2021
Judgment signed by the presiding officer on	: 22.09.2021
Judgment uploaded on	: 22.09.2021