

MHBU010005042023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BULDANA

SPECIAL CASE NO. 23 OF 2023

Vishnu Sukhdeo Pandey,
Age-29 years, Occ.Agri,
R/o Takli, Tq.Dist.Buldana ... Applicant

..Versus..

State of Maharashtra
Through D.G.P.Buldana,
Through PSO Dhad ... Non-applicant

ORDER BELOW EXH.7

(Passed on this 6th day of June 2023)

1] Instant bail application has been filed by applicant under Section 439 of Criminal Procedure Code for grant of regular bail inter-alia contending that Police Station Officer, Dhad has registered Crime No.87/2023 relating to the offences punishable under Sections 376, 506, 452 of the Indian Penal Code and Sections 3(1)(w)(i), 3(2)(va) of the S.C.S.T.(Prevention of Atrocities) Act, 1989.

2] In brief, prosecution has alleged that victim is resident of Takali, Tq.Dist.Buldana. Accused is also resident of same village. Incident took place on 13.4.2023 at about 11.00 p.m. in the night. At that relevant time, victim woke up and went to her kitchen room for drinking water. Accused had come there and caught her from backside and committed

sexual intercourse with her forcibly. During mean time, her husband came there. After noticing his presence, accused fled away from the spot. On the basis of these allegations, she lodged her report to the police station on 14.4.2023.

3] On the basis of her report, crime was registered in above-stated manner. Accused was arrested on 14.4.2023. Investigation was started and completed. Thereafter, charge-sheet has been filed before this Court.

4] Applicant has denied all the allegations made against him. He is innocent one. According to him, there was love affair between him and victim since last two and half years. Sexual intercourse was committed with the consent of victim. Investigation has been already completed and charge-sheet has been filed. Antecedent of applicant is clear one. In such circumstances, no purpose will be served by detaining applicant behind bar for further period. If bail application is allowed, then he will not misuse the same. Lastly, it is prayed for allowing his bail application.

5] Learned APP Smt.Saoji-Deshpande has filed say to the bail application and thereby strenuously opposed regular bail application by contending that serious allegations have been made against applicant. If applicant is released on bail, then he will misuse the same and will create hurdle in the progress of trial. There is no legal ground to allow the bail application. At last, it is requested for

rejecting bail application.

6] Victim has filed her say vide Exh.9 and opposed bail application by contending that in case, bail is granted to applicant, he will threaten and will pressurize her. On the basis of these grounds, lastly, it is praye for rejecting the bail applicant.

7] I have heard learned Counsel Shri Sakhare for applicant , learned APP Smt.Saoji-Deshpande and the victim.

8] On perusal of record, it will find that applicant has been arrested on 14.4.2023 and today the date is running 6.6.2023. Admittedly, investigation has been completed and charge-sheet has been already filed. Victim is major one and married lady. Learned Counsel of applicant has argued that according to prosecution, alleged incident took place in the house of victim, where her husband and children were present. He further argued that she did not shout at the time of alleged incident and it shows her consent. In such situation, according to him, forcible sexual intercourse in the house of victim is not possible and it was consensual sexual relations. In such given set of facts and circumstances, prosecution side could not show that antecedent of applicant is not clear. In the light of above facts and circumstances, no purpose will be served by detaining applicant behind bar for further period. Furthermore, applicant is resident of Takali, Tq.Dist.Buldana. Therefore, there are least chances of his absconding. As such, if regular bail is granted to

applicant conditionally, then it may not prejudice to the prosecution side. Hence, according to me, applicant is entitled to regular bail. In the result, following order is passed.

ORDER

- 1] Bail application (Exh.7) is allowed.
- 2] Applicant Vishnu Sukhdeo Pandey be released on execution of P.R. Bond of Rs.20,000/- with one surety in like amount, in Crime No.87/2023 registered with Police Station, Dhad on following conditions;
 - A] Applicant shall not misuse the bail.
 - B] He shall not create any hurdle in the progress of trial.

Buldana
Date:6.6.2023

(R.N.Mehare)
Addl.Sessions Judge,
Buldana