

MHBU040003392024



Order below Exh.3
(Passed on 3.8.2024)

1. This is the first regular bail application after filing charge sheet, preferred by applicant/accused Devidas Ganpat Raut, u/s 439 of the Criminal Procedure Code, in connection with Crime No.246/2024 registered with police station Shivaji Nagar Khamgaon for the offences punishable under sections 354, 452, 506, 376 of the Indian Penal Code.
2. Learned APP Mr.S.B.Ingle has resisted the application by filing say below Exh.5. It is contended that mere filing of charge sheet is not a sufficient ground to grant the bail to consider as changed in circumstance. It is contended that there is concrete material evidence against the accused. The prosecution is ready to help in speedy disposal. Therefore, if accused released on bail then he may directly and indirectly pressurized the material witnesses. Hence, he requested to reject the application.
3. The victim through learned advocate Mr.PD.Dande filed her say below Exh.7 and resisted the bail application. It is contended that the informant and accused are resident from same locality. Since filing the

charge sheet, the family members and relatives of the accused are abusing to victim and her mother. It is contended that the father of victim died on 30.6.2024 and therefore, the relatives of the accused are pressurizing the victim and her mother. It is contended that the mother of victim is serving in Bank and victim along with her sister used to reside in the house alone. Therefore, if accused released on bail then he is likely to commit serious offence. Hence, she requested for rejection of application.

4. Learned Advocate Mr.R.S.Tathe, on behalf of applicant/accused has submitted that since 10.10.2023 applicant is behind the bar. Police have already submitted the charge sheet. Therefore, his further detention is not necessary. He submitted that applicant/accused is ready to abide by all the terms and conditions of bail if he released on bail. He further submitted that on 18.2.2024 the right leg of son of accused has been fractured in the accident. Therefore, by inserting rod he has operated at Pune, but said rod was inserted in wrong method in the leg. Hence, again it is necessary to make the operation of the son of applicant and there is no other except the applicant to look after him. He submitted that applicant is suffering from disease of eyes. Considering all these aspects, prayed for releasing the applicant/accused on regular bail.

5. Learned APP Mr.S.B.Ingle argued as per say Exh.5 and urged to reject the application.

6. Learned advocate Mr.P.D.Dande argued as per say Exh.7 and urged to reject the application.

7. I have considered the submission of both side. Perused the application, say filed by the prosecution as well as victim, charge sheet and documents on record.

8. After perusal of charge sheet, it shows that on the basis of report dated 22.8.2023 filed by the informant a 53 years old woman, Shivaji Nagar police station has registered the offence No.246/2023 under section 354, 452, 506 of the Indian Penal Code. Accused was arrested and released on bail by the JMFC Court Khamgaon. After recording of subsequent statement of victim, she has narrated about forcible sexual intercourse by the accused. So offence, under section 376 of the IPC was registered. During her statement u/s 164 of Cr.PC. she has narrated about forcible intercourse by the accused. Again accused was arrested. The medical examination of the victim and accused was done. The clothes of accused and victim seized. After completion of investigation police have submitted the charge sheet.

9. Medical examination report of victim shows that at the time of her examination, she has cleaned her clothes and she had taken bath and passed urine/stools to medical examination of victim is done after four days from the alleged incident. Because by the time victim has not spoken anything about sexual assault. Biological samples of the victim are also taken by medical officer. Medical examination report

shows that hymen of the victim is torn completely. This finding is indicative of sexual assault by the accused on the victim. As per reply of victim, the relatives of victim are pressurizing her and her mother. In such circumstances, I do not find it a fit case to grant the bail. Hence, application deserves to be rejected. In result, I pass the following order :-

ORDER

1] Application Exh.3 stands rejected.

Date : 3.8.2024

(G.B.Jadhav)
Addl.Sessions Judge, Khamgaon.

Certificate

I certify that this order PDF uploaded is a true and correct copy of original signed order.

Name of Steno : Mrs. Nishat Anjum Mohd. Rafique.

Name of Court : Special Judge, Khamgaon, Dist. Buldana.