



ORDER BELOW EXH.04

(Passed on 19.08.2023)

1. Accused Gopal Dayaram Ratnaparkhi filed this application for bail under Section 439 of the Cr.P.C. Reply of learned APP is called. It is at Exh.8. Victim filed protest petition at Exh.9. This case is based on crime No.181/2023 registered under Sections 376(1), 376(3), 376(AB), 377 of Indian Penal Code, Section 4, 6, 8, 10 of the POCSO Act with Khamgaon City Police Station. In this case charge sheet is filed on 31.05.2023.

2. I have heard learned Advocate Mr.V.R.Ghate for the accused and learned APP Mr.U.S.Apte for the State.

3. Learned Advocate for the accused submits that, mother of victim is sister in law of wife of the accused. Wife of the accused eloped with one Krushna and she is staying at Malkapur without informing the accused. The accused came in search of his wife at Khamgaon. Wife of the accused with the help of her sister in law i.e. informant has filed this false case against the accused to keep him away from relationship of his wife with said Krushna. Learned Advocate for the accused submits that the allegations are inherently improbable because it is not possible to have sexual intercourse in a small room wherein four-five persons are already sleeping. Thus, by pointing out various other anomalies he prayed that the accused may be released on bail on any condition.

4. Learned APP submits that age of victim is 10 years. Alleged offences are serious in nature. Prosecution is ready to conduct trial expeditiously. So bail may not granted.

5. In this case accused is arrested on 11.04.2023. Charge sheet is filed on 31.05.2023. So the custodial interrogation and medical examination of the accused is already done. Cloths of the accused has already been seized by the police under seizure panchnama. The relationship as pointed out by learned Advocate for the accused is not disputed by the State.

6. As per complaint alleged incident took place in a small room where victim, her grandmother, uncles, aunts were sleeping. As per prosecution victim was sleeping between her uncle and grandmother. Allegedly the accused had taken her out from there and in same room committed rape on her. It is very hard to believe that in a small room where these much relatives were sleeping no one has noticed any movement, voice. Charge sheet does not show that victim has ever raised hue and cry.

7. The alleged incident took place on 08.04.2023. But complaint is filed on 10.04.2023. Reasons for delayed complaint is nowhere explained in the final report. Medical examination report of victim shows opinion that finding is suggestive of sexual intercourse. However, same report does

not clearly show that hymen of victim is completely ruptured/torned.

8. During investigation biological samples, cloths etc. of victim and the accused were seized and those were sent for chemical analysis. Till today muddemal and CA reports are not received. No one knows how much time it will take to receive these reports. As the investigation is completed possibility of tampering evidence does not survive. The accused is resident of Chakan, Pune. So there would be no occasion for him to visit Balapur Fail of Khamgaon and tamper evidence of prosecution.

9. No purpose will be served by keeping the accused behind bars and to wait for muddemal, CA reports. Thus, in totality I find it a fit case to release the accused on bail. Thus, argument made by learned Advocate for the accused is acceptable. Grounds in the application are satisfactory. Hence, order.

ORDER

1. Application is allowed.
2. Accused Gopal Dayaram Ratnaparkhi be released on bail on his executing PB & SB of Rs.40,000/- with one or more surety in like amount.
3. The accused shall not enter/visit in village Balapur Fail area of Khamgaon City till disposal of this case.
4. The accused shall furnish address proof and contact

numbers of his two close relatives along with his address proof.

5. The accused shall attend Court on each date of hearing and shall not tamper evidence of prosecution.
6. Inform concerned police station accordingly.

Khamgaon
Dt. 19.08.2023

(Prasad P. Kulkarni)
Additional Sessions Judge
Khamgaon

Certificate

I affirm that the contents of this PD.F. file is correct,
word to word as per original order.

Name of Court : Additional Sessions Judge, Khamgaon,

Name of Steno : Govinda D. Bhoite (Stenographer Grade-III)

Decided on : 19.08.2023

Checked & signed on : 19.08.2023

Uploaded on : 19.08.2023