

**ORDER BELOW EXH.03**

(Passed on 24.10.2023)

1. Accused **Dhiraj Santosh Boyat** filed this application for bail under Section 439 of the Cr.P.C. It is first bail application of this accused after filing of charge sheet. Reply of State is called. It is at Exh.04. Reply of informant is at Exh.05. This case is based on crime No.474/2022 registered with Shegaon City Police Station under Sections 376, 376-A of Indian Penal Code, Section 4, 6 of POCSO Act. In this case accused is arrested on 06.08.2023. Charge sheet is filed on 03.10.2023.
2. I have heard Advocate Mr.PD.Mane for the accused and APP Mr.PT.Lahudkar for the State. Advocate for the accused submits that, charge sheet does not show identity of the person who allegedly committed rape on victim and made her pregnant. Investigation is completed. No purpose will be served by keeping accused behind bars. So bail may be granted. APP submits that CA report shows nexus of the accused with the alleged offence. Hence, bail may not be granted.
3. I have gone through final report. Record reveals that prior to her death victim was ill and she became pale. She had consulted to Civil Hospital and then only informant came to know that victim was 5-6 months pregnant. Unfortunately victim passed away on 06.10.2022. So far as age of the victim is concerned it could only be proved during trial after recording

evidence. For a sake of moment even if it is assume that victim was major but still the allegations in the complaint are so serious that it can not mitigate act of the accused. Had victim survive her pregnancy she would have narrated all the facts which lead to filing of this case. But she is no more now.

4. In its comprehensive investigation police has apprehended many boys who were in contact with victim to know that who is the author of alleged crime. One CA report DNA-AM-630/22AM(T)6737/23 dated 14.06.2023 column No.9 shows that DNA sample of the accused match with the fetus. So even though there is no direct evidence of the alleged offence. But forensic evidence is sufficient to connect the accused with the alleged offence.

5. Whether victim was major ? Whether there was a consensual sexual relationship ? All these are factual aspect of trial and it needs proof. If released on bail accused will certainly tamper witnesses of prosecution so as to make prosecution's case weak. Thus, grounds in the application are not satisfactory. Considering nature of offences and involvement of the accused. I am not inclined to grant of bail. Thus, application deserves to be rejected. Hence, order.

ORDER

Application is rejected.

Khamgaon
Dt. 24.11.2023

Sd/-
(Prasad P. Kulkarni)
Additional Sessions Judge
Khamgaon

Certificate

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

Name of Court : Additional Sessions Judge, Khamgaon,

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

Decided on : 24.11.2023

Checked & signed on : 24.11.2023

Uploaded on : 24.11.2023