

ORDER BELOW EXH.3 IN SPECIAL CASE NO.194/2023.

(CNR No. MHDH010036992023)

Vivek Bhagwansing Girase. Applicant.

- Vs -

The State of Maharashtra. ... Respondent.

This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, praying to release him on bail in connection with crime No.200/2023 registered with Shindkheda Police Station, under Sections 363, 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4, 8, 12 of Protection of Children from Sexual Offences Act, 2012.

2] The prosecution case in short is that the informant, father of victim lodged report to Shindkheda police station, inter alia contending that, victim is 16 years old and was studying in 11th standard. On 27-07-2023 at about 07:00 a.m. she took mobile from the informant and went to college, but she did not return home till 03:30 p.m. Therefore informant tried to call on the said mobile but it was switched off. Thereafter informant went in the college of victim, met her principal and also searched for her in the village and to the relatives, but she was not found. Therefore, informant lodged F.I.R. of kidnapping against unknown person. Thereafter on 16-08-2023 victim was found. On inquiry, victim told that prior to 5 to 6 months she got acquainted with accused when he came to their house of taking meal. They used to talk with each other on mobile phone. Prior to one month accused took the victim to the house of his friend at Dondaicha. There accused established forcible physical relations with

the victim and snapped their photos at that time. Thereafter accused used to insist the victim to go out of the village with him. On 26-07-2023 accused phoned her and told her to take her clothes and documents with her otherwise he would make her photos with her viral would trouble her parents. Therefore on 27-07-2023 at about 07:00 a.m. victim went with the accused. He took her to railway station. From there he took her to village Chalthan. They stayed there in a rented room and accused established forcible physical relations with her. Mother of victim call her and told her about lodging of F.I.R. Therefore she told the accused to let her go to her house, but he again blackmailed her and took her to village Kalodara and from there to Chakan. On 16-08-2023 at about 04:00 a.m. maternal uncle and other relatives of victim came there and brought back the victim. On these allegations offence punishable under section 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 came to be registered against the accused vide C.R. No.200/2023. Applicant was arrested on 16-08-2023 and since then he is in custody.

3] Heard learned Special P.P. Shri. N.B.Kalal for the State and learned advocate Shri. V.P.Tawar for the applicant. Perused contents of F.I.R. and documentary evidence placed on record.

4] The learned Counsel of accused argued that the accused has not committed any offence. He has been falsely implicated in the offence. Applicant and victim was good friends and her parents did not like it, therefore false F.I.R. is lodged against him. There is delay of one day in lodging F.I.R. and it is not properly explained. Nothing is to be recovered from the applicant. Investigation is almost complete.

Custodial interrogation is no more required. He is ready to abide by the terms and conditions if any imposed by the Court. Hence, he prayed to release the applicant on regular bail.

5] The learned A.P.P. has submitted that the offence is serious in nature. If the accused is released on bail, he will pressurize the prosecution witnesses and will flee from the Court of justice. Hence, Ld. A.P.P. prayed for rejection of application.

6] The informant appeared before the Court through advocate Shri. V. T. Rajput but failed to file say.

7] On perusal of the documents filed by the State and considering the submissions made by the learned advocate for the complainant it appears that an offence punishable under Sections 376(2)(j)(n), 506 of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 has been registered against the applicant accused. Earlier bail application was rejected as D.N.A. report was not received and the statement of the victim under section 164 of Cr.P.C. was not recorded. Now the investigation is over. Charge-sheet is filed. Physical custody of the accused is not required for investigation purpose. The trial cannot be commenced and completed in a definite period. The object of bail is to secure the appearance of accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment. Punishment begins after conviction. Therefore accused cannot be detained for indefinite period, more particularly when a man is deemed to be innocent until duly tried and duly found guilty. Hence in my view by imposing certain conditions the accused can be released on bail.

Hence I pass following order.

ORDER

- 1] The application is allowed.
- 2] The applicant Vivek Bhagwansing Girase, is released on bail in connection with Crime No.200/2023 registered with Shindkheda Police Station, Dist. Dhule for the offences punishable under Sections 363, 376(2)(j)(n), 506 of I.P.C. and section 4, 8, 12 of POCSO Act, he be released on executing PR bond of Rs.15,000/- (Rs. Fifteen thousand only) with one local surety for the like amount on the following conditions :-
 - a) Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.
 - b) Applicant shall not leave India without permission of the court.
 - c) Applicant shall remain present before the Court on every date, till the disposal of main petition.
 - d) The applicant shall not change his residential address without prior intimation to the Investigation Officer and to the Court.
- 3] A soft copy of this order be sent to accused Vivek Bhagwansing Girase by e-mail through the Superintendent of Jail, Dhule in view of directions of Hon'ble Supreme Court in Suo Moto W. P (Cri) No.4/2021 (SC) dated 03.01.2023.

Date: 22.11.2023.

(Y.G.Deshmukh)
Additional Sessions Judge, Dhule.

Certificate

I certify that the contents of this PDF file are word to word as per Original Judgment/order.

Name of the Steno : T.R.Pankhedkar.

Name of the Court : Court of District Judge-2 & Addl. Sessions Judge, Dhule.

PDF Uploading Date : 22-11-2023.

Sd/-...

Stenographer(Gr-I).