

MHGA010009092022



IN THE COURT OF SESSIONS AT GADCHIROLI

(Presided over by Shri. Uttam M. Mudholkar)

(Additional Sessions Judge)

Cri. Bail Appln. in Spl. POCSO C. No. 76/2022

Ratnakar Marotirao Pittalwar

Aged about 56 years,

Occu. - Service

R/o. Murumgaon, Tah. - Dhanora,

Dist. Gadchiroli

.... **Applicant**

..Versus..

State of Maharashtra

Through PSO, PS. Gadchiroli,

Tah. & Dist. Gadchiroli

.... **Respondent**

Adv. N.U. Lodalliwar for the applicant

P.P. Shri. A.S. Pradhan for the State

ORAL ORDER

(Passed on 14.11.2022)

1] This is an application moved by applicant seeking his release on bail in Special POCSO C. No.76/2022 arising out of Crime No.696/2022 for the offences punishable u/Sec. 354 of the Indian Penal Code, 1860 (for short 'IPC'), Sec. 8, 12 of the Protection of Children from Sexual Offences Act, 2012 Act (for short 'POCSO') and Secs. 3(1)(w)(i)(ii), 3(2)(va) & 3(2)(vii)

of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SCST Act') registered at Gadchiroli Police Station.

2] The brief facts, which led to the registration of charge-sheet, can be summarised as under -

That on 05.10.2022, while victim girl, who is 11 years old, in the afternoon while she was returning back to the hostel from the dinning hall, accused, who is serving in her school as a Cook, called her towards him, but she denied. Therefore, the accused dragged & brought her towards the water purification system, pressed her breast and also moved his hand on her waist by lifting her shirt. When she asked him to allow her to go, he let her to go. Due to said incident, she went towards the hostel incharge and narrated the occurred incident to the lady attendant. Making such allegations, the FIR came to be lodged whereupon the offences, as alleged above, under the provisions of IPC as well POCSO & SCST Act came to be registered against accused On 06.10.2022, the applicant came to be arrested and after having placed him in police custody, presently he is in the judicial custody.

3] Heard learned Adv. N.U. Lodalliwar for the applicant and learned PP Shri. A.S. Pradhan for the State. Perused the reply filed by the Investigating Officer as well as victim girl through her father and the documents filed along with the application as well as the charge-sheet.

4] It was vehemently submitted by learned Adv. Shri Lodalliwar for the applicant that the maximum punishment

provided for the alleged offences is five years and that the investigation is completed and as such, there is no need of extension of his judicial custody. He further submitted that since the statements of the victim girl and all the material witnesses have been recorded, there is least scope for the applicant to tamper with the evidence. As such, he requested to enlarge the applicant on bail. Per contra, learned PP Shri Pradhan vehemently submitted that the victim girl is just 11 years old and applicant has outraged her modesty & sexually assaulted the victim girl and if released on bail, he will either pressurize the victim girl or endanger her life. As such, he requested to reject the application.

5] I have carefully gone through submissions of both the sides and record. The reading of the FIR and charge-sheet go to show that prima facie there is material to show that there is involvement of applicant in the commission of the alleged offences. However, having regard to the total circumstances and the punishment provided for the alleged offences, the application cannot be straightway rejected. Among the offences, which have been levelled against the accused, Section 8 of POCSO & Section 3 of SCST Act provide maximum punishment up to 5 years respectively. In other words, for the offences levelled against applicant the punishment either of life imprisonment or death has not been provided. Under these circumstances, liberal approach needs to be adopted.

6] Admittedly, since 06.10.2022, the applicant is behind the bars. The investigation is completed and charge-sheet

is filed. Now nothing is to be seized or recovered on the pointing of the applicant. His further detention in Judicial Custody appears to be unwarranted. The investigation officer and the victim girl while opposing the bail application have mainly resisted the application by contending that in the event of granting bail, the applicant is likely to threaten or pressurize the victim girl and as such, rejection of the application has been prayed. I have carefully considered this aspect and the material placed on record. It can be gathered from the investigation papers that statements of victim girl and all the material witnesses came to be recorded also under Sec. 164 of Cr.P.C. Therefore, now there is least scope for the applicant to tamper with the evidence. So far as the apprehension raised in the reply is concerned stringent condition can be imposed against the applicant so as to protect the interest of the victim girl and her family members. Similarly, the applicant is the local inhabitant and therefore there is least possibility of his abscondance. There is no criminal antecedent to the discredit of applicant. Apart from this, he appears to be a servant in a school and is ready to abide by all the terms and conditions put by this Court while granting bail. Having regard to all the above discussed aspects, it appears to me that no fruitful purpose would be served by putting the applicant behind the bars, till the conclusion of the trial, which may take sufficient long time. Thus, having regard to the total circumstances, in the considered view of this Court, the application deserves to be allowed. Hence, the following order is passed to meet proper ends of justice.

ORDER

1. The Cri. Bail Application in Special POCSO C. No. 76/2022 arising out of Crime No.696/2022 of Gadchiroli Police Station is allowed as under -

2. Applicant **Ratnakar Marotirao Pittalwar** be released on bail of his furnishing P.R. and Surety Bond of Rs. 15,000/-, on following conditions -

- a. The applicant shall not tamper the prosecution evidence in any manner.
- b. The applicant shall not try to contact, in any way, the victim girl and the material witnesses, till completion of the trial.

Date : 14.11.2022

(U.M. Mudholkar)
Additional Sessions Judge,
Gadchiroli