

MHKO010025642022



Order below Exh. 4 in Sessions Case No. 179 of 2022.

1. This is an application filed by the applicant/accused Somesh Subhas Kamble seeking bail under section 439 of Cr.P.C. in regard with Crime No. 151/2022, for the offence punishable under Sections 376, 354-D, 327, 342, 323, 506 of the Indian Penal Code registered at Police Station Shahupuri, Dist. Kolhapur.

2. Case of the prosecution in short as follows that -

It is alleged that this applicant is the relative of the informant and they were knowing each other. The victim is taking education in Medical Collage at Kolhapur. The alleged incident occurred in between the period January, 2021 to 16.2.2022 from time to time at Kolhapur. Applicant-accused used to come at Kolhpaur and used to meet complainant in hotel. He had forcible sexual intercourse with complainant in the Hotel Anugraha. So also in the month of November, 2021 accused called victim, threatened her, forcefully took her at Hotel Anugrha, Hotel Ashirwad Skylark and had forcible sexual

intercourse with the victim in the above said hotels. At that time accused assaulted her and also snatched gold chain from the neck of victim. Thereafter, when she denied to go with him, he gave threats that he would circulate the videos and photographs of her and given the threats that he would throw acid on her face and threatened to kill her father. Hence, complainant lodged complaint. On said complaint filed by the complainant above referred crime has been registered against the accused.

3. The applicant was arrested on 19.3.2022. Now he is in MCR. He has filed previous bail application No. 342 of 2022 which was rejected by my learned predecessor. Hence, he has filed this present application for bail.

4. The learned counsel for the applicant-accused has submitted that the applicant-accused is innocent and he has not committed any offence. He has been falsely implicated in the present crime on suspicion. He is deeply rooted in the society and ready to obey the terms and conditions imposed by the Court while releasing him on bail.

5. The learned counsel for the applicant-accused has further submitted that the material investigation in the present crime has been completed and custodial interrogation of the

applicant-accused is not required to the police. With these submissions, the learned counsel for the applicant has prayed for releasing the applicant-accused on regular bail.

6. The investigating officer has filed say at Exh.5 through learned Addl.P.P. Smt. M. B. Patil, elaborating the investigation, the investigating officer has raised objection to release the applicant-accused on bail.

7. The learned Addl.P.P. Smt. M. B. Patil, has vehemently argued that the offence is very serious in nature. If the applicant-accused is released on bail, there is every possibility of pressurizing and threatening the victim and also other witnesses and tamper the evidence by the applicant-accused. Therefore, the learned Adll.P.P. has prayed for rejection of the application.

8. Perused the record and say at Exh. 5. Heard Shri. M. S. Jagtap, learned counsel for the applicant-accused and learned Addl.P.P. Smt. M. B. Patil for the State. Considering the facts of the case and the arguments advanced by both the sides, I come to the conclusion as follows:

9. It is argued by the learned counsel for the applicant that there is delay in lodging FIR. There is discrepancy in the statement under Section 161 and 164 of Cr.P.C. As per the facts of the case the present applicant has allegedly committed the offence continuously and last alleged incident was prior to 4 months of the lodging the FIR. This is not the stage to decide the defence of the delay on merits. At this stage it is only to be seen that present applicant is entitled to be released on bail.

10. Considering the entire chargesheet and the statements of the witnesses I find that there is prima facie evidence is available on record to connect the present applicant with the alleged offence. Present applicant has allegedly threatened the victim of acid attack and to kill her father. The present applicant and the accused are the relatives. Therefore, possibility of tampering the evidence and pressurizing the witnesses cannot be ruled out at this interim stage.

11. The offence is very serious in nature. The victim has made serious allegations against the accused. All those allegations are required to be decided on merits. Filing of chargesheet cannot be the sole reason to allow the bail application. No sufficient change in circumstances has been

shown by the applicant to allow this second bail application. The offence is very harsher crime, serious in nature and against the woman, therefore I find that mere attendance of the applicant-accused to police station will not serve the purpose of investigation. Further, the grant or refusal of bail should necessarily depends on the facts and circumstances of each case. Some very compelling circumstances must be made out for granting bail. There is no change in the circumstances. Hence, the following order.

ORDER

Application (Exh.1) stands rejected.

Dt. 10.8.2022.

(Smt.P.F.Sayyad)
Additional Sessions Judge-1,
Kolhapur.