


MHKO060004722023 	ORDER PASSED BELOW EXH.4 IN SPECIAL CASE NO.25/2023 -
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This is an application filed by accused for bail under section 439 of Criminal Procedure Code in Crime No.276/2023 for the offence punishable U/s. 376(2)(f), 376(2)(i), 376(2)(j), 506 of the Indian Penal Code, 1860, Section 4, 6, 10 of Protection of Children from Sexual Offences Act, 2012 registered at police station, Kurundwad (Spl.C.S.No.25/2023).

2] Facts in brief are as under;

Complainant Sarika resides with her husband and children at Abdullat Tal.Shirol, Dist.Kolhapur. Complainant is a teacher in school at Ichalkaranji and her husband does private job. Victim is the daughter of complainant. The date of birth of the victim is 29-09-2011. Victim is 12 years 11 months old. Accused runs private coaching class at Abdullat and therefore, victim used to go to the class of accused for science, math and english subjects. Timing of the class of the victim was 6.00 pm to 7.00 pm.

3] According to complainant, on 07-06-2023, victim made complaint about stomach pain. Victim had missed her menses from January 2023. Therefore, complainant and her husband took the victim at CPR hospital. There on examination medical officer informed that victim is pregnant. Complainant made inquiry with victim and victim narrated that she acquainted with accused in January 2023. After the class, accused stopped her and asked to do sexual intercourse with her. Accused asked victim to remove her nicker. He also removed his pant and committed sexual intercourse

with her. Thereafter, accused frequently committed sexual intercourse with victim. Accordingly, complainant lodged report in the police station.

4] On the report, crime was registered. Accused was arrested. Medical examination of victim and accused was done. In the mean time, victim gave birth to baby in social institution. DNA samples of victim and accused were taken and sent to chemical analyzer. The statements of witnesses were recorded. The statement of the victim was recorded under Section 164 of the Criminal Procedure Code before the learned Judicial Magistrate First Class, Kurundwad. After completion of investigation, chargesheet is filed.

5] The case numbered as special case No.25/2023.

6] Mr. A.R.Patil, advocate for accused has submitted that accused has no concern with the alleged crime. Accused is falsely implicated in the present crime. The alleged incident occurred in January 2023 but FIR is lodged in the month of September 2023. This delay is not explained. He has further submitted that complainant is teacher but she has directly taken her daughter for treatment in CPR hospital. Complainant did not notice big stomach of the victim. The fabricated evidence is created. He has further submitted that accused has undergone bye-pass surgery. He needs follow up and medications. The victim is with her parents and therefore question of tampering of evidence does not arise. Now custodial interrogation of the accused is not necessary. Accused is ready to abide by the conditions imposed by the court. He prayed to release the accused on bail.

7] Whereas Mr. U.M.Kulkarni, learned APP for the state has

submitted that victim is hardly 12 years and 11 months old. She is child within the meaning of POCSO Act. Accused committed repeated sexual intercourse with victim. Victim was pregnant and she has given birth to baby. He has drawn my attention towards the chargesheet. According to him, DNA samples has collected but the report is awaiting. He has further submitted that offence is serious and therefore, accused is not entitled for bail. He prayed to reject the application.

8] Complainant appeared and filed her say at Exh.8. She has stated that the victim was studying in 7th std. and accused committed serious offence of rape against the victim. Accused is teacher and his act is against the ethics of his profession. She has further stated that if the accused is released on bail then he will pressurize her and victim. She prayed to reject the application.

9] I have perused the chargesheet. The record shows that the date of birth of victim is 29-09-2011. Thus, at the time of incident she was 12 years old. In her statement victim has specifically stated that when class was over in January 2023 accused stopped her. Accused asked her to remove nicker. Accused also removed his pant and committed sexual intercourse. Thereafter accused frequently committed sexual intercourse with her.

10] It is to be noted that in the month of September 2023 complainant noticed stomach of the victim is big and she had missed menses. Therefore, she took the victim at CPR hospital. There she came to know that victim is pregnant. Victim narrated her the incident.

11] In the present case, investigation is completed. However, the offence is serious and that too against girl of 12 years old. Her pregnancy came to the notice of her mother when there was no possibility of termination of the same. Victim gave birth to baby. DNA samples are collected and sent to FSL Kolhapur. However, the report is awaiting.

12] This is unique case where teacher committed sexual assault with his student. Victim was going to class of accused to learn science, math and english subjects and there accused committed the said act with the victim. Advocate for accused has filed medical papers of the accused. However, offence is serious. Therefore, considering the facts and circumstances of the case and seriousness of the offence, I find that accused is not entitled for bail. So the following order;

:ORDER:

Application is rejected.

Jaysingpur.
Dt.: 10-01-2024.

(G.B. Gurao)
Additional Sessions Judge,
Jaysingpur.