

MHKO080005092024



Order Below Exh. 14 in Sessions Case No.20/2024

[State of Maharashtra Vs. Shridhar Arjun Shingate]

01. The present bail application is filed under section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (“BNSS” for short) by the applicant/accused, who is facing charges under section 323, 376, 506 r/w.34 of the Indian Penal Code, 1860 (“I.P.C.” for short). This is the first bail application after the charge-sheet.

02. It is stated that, the applicant/accused has not committed any offence as alleged in the FIR dated 05/06/2024 vide its CR No.352/2024. He was arrested on 14/09/2024 and was produced before the Learned J.M.F.C., Gadhinglaj on 15/09/2024 and was remanded to police custody till 16/09/2024 and thereafter, he is in judicial custody. He has been falsely implicated in the case. The applicant/accused is local resident and will not jump the bail. The investigation is completed, charge-sheet is filed. Therefore, there is need of physical custody of the present applicant/accused. No purpose will be served by keeping him behind bar.

03. The application is opposed by the State by filing say by the Learned APP. The first informant, who is victim in the present case, has filed her affidavit on 17/12/2024 and opposed the application.

04. Perused the record. Heard both parties.

05. The allegations against the applicant/accused is that, on 05/06/2024, the victim was present in her house and was drying chilly on the terrace of the house the accused No.1 i.e. present applicant came there along with his friend accused No.2. The accused No.2 had stayed at the ground floor of the said house and was waiting for accused No.1. The victim and the accused No.1 were acquainted with each other prior to the incident. The accused No.1 insisted her to live together with each other. He also proposed to look after the welfare of her son. During the said conversation they had quarrel with each other, because the victim was not accepting any of his proposal and was intending to stay away from him. During the quarrel, the accused lost his control, he manhandled and committed rape on her.

06. On the same day, she lodged the FIR with the Police Station, Gadhinglaj. The accused No.2 immediately came to be arrested on the same day, but the present applicant/accused was absconded since registration of the crime and has unsuccessfully availed the remedy of anticipatory bail applications before this Court and also before the Hon'ble Bombay High Court and finally came to be arrested on 14/09/2024 and at present he is in judicial custody.

07. During the course of investigation the medical examination of victim was conducted immediately after the incident and it is confirmed that she has been subjected to sexual intercourse.

08. The Learned Counsel, Shri. Anilkumar Matala, argued on behalf of the accused that, the charge-sheet is filed and it will take time to commence the trial and further languishing the accused in the Jail merely on the basis of allegations made by the first informant will curtail his liberty. The applicant/accused is ready abide the conditions that may be levelled by this Court. He submitted that the applicant/accused will not make any contact with the first informant

and will stay away from her and therefore, he submitted that considering the fact that the charge-sheet is filed and the allegations made in the first information report and the evidence collected by the police is not disclosing prima facie case against the applicant/accused. He pointed out that the applicant/accused and the first informant were known to each other since long, they were closed friends of each other and therefore, the allegations of rape are unfounded. Nothing is brought on record that, the applicant/accused has used force against the first informant at the relevant time of the incident. He submitted that the applicant/accused has been trapped with preplanning in this case and therefore, he submitted that the application may be allowed.

09. On the other hand, the learned APP, Shri. S.A. Teli strongly opposed the bail application and submitted that, the accused was earlier arrested in CR No.293/2024 dated 09/05/2024 registered by the first informant/victim in the present case with the Gadhinglaj Police Station for the offence punishable under Section 341, 354-A and 354-D of the IPC and was released on bail. Thus, while the present applicant/accused was on bail he has committed these aggravated form of offence against the victim/the first informant. He pointed out that, the applicant accused has vast criminal track record. Thus, he submitted that, there is a threat to the life of victim and her family members, if the applicant/accused is released on bail. Therefore, submitted to reject bail application.

10. Learned Counsel, Shri. S.N. Fagare appeared on behalf of the first informant and submitted that, the accused has recently outraged the modesty of the victim and for which the victim has lodged the FIR with the Gadhinglaj Police Station, wherein the applicant accused was released on bail with certain conditions by the Learned J.M.F.C., Gadhinglaj by order dated 14/05/2024. But, the

accused has violated those conditions and committed these aggravated form of offence. He also pointed out that, the police of Gadhinglaj Police Station have already moved for cancellation of the said bail. He has filed copy of the said report/application on record. The accused has submitted his say to the said bail cancellation application. The copy of the said say dated 08/07/2024 is filed on record.

11. Thus, he pointed out that, the accused is hardcore criminal and if he is released on bail, certainly there is life threat to the victim and she will not able to reside peacefully and move freely in Gadhinglaj town, where she is earning her bread and butter by running a beauty parlour. Therefore, he submitted to reject the bail application.

12. Thus, on the background of above record and the submissions made by both the parties, the present bail application needs to be considered. It is matter of record that, as the present applicant/accused was absconded since registration of the crime, therefore, the police could not complete his part of the investigation. However, they have filed charge-sheet in the Court against the accused No.2, which is registered as R.C.C. No.82/2024. Now, the police have filed supplementary charge-sheet in the Court against the accused. The said case is committed by the learned J.M.F.C., Gadhinglaj in this Court, which is registered as Sessions Case No.20/2024 and is pending on the file of this Court. It is also matter of record that, the accused No.2 Rahul Netaji Musale is released on bail vide order passed below Exh.3 on 27/08/2024 in Sessions Case No.20/2024 by this Court considering his minor role in the commission of the alleged crime.

13. Thus, so far as the present bail application is concerned, it is a matter of record that, the applicant/accused was already released on bail in connection with the crime registered against him at the

instance of the first informant/victim in the present case alleging outraging her modesty.

14. The supplementary charge-sheet submitted by the police reflects the sexual assault committed by the applicant/accused on the victim and these all the evidence go against the accused. It must not be lost sight of that, victim is a married woman and is pursuing her occupation/business of beauty parlour by residing alone at the residence at Gadhinglaj. The applicant/accused has committed the present crime while he was on bail in a criminal case registered against him at the instance of first informant for outraging her modesty. The time gap in between the releasing the accused on bail in the earlier crime and allegedly committing the present crime is very narrow. The victim who is today present in the Court, submitted that the applicant/accused has long criminal track record and if he is released on bail, there is threat to her life at the instance of the accused and therefore, considering the reasonable apprehension expressed by the victim it would not proper to release the applicant/accused on bail, particularly on the background that the hearing of the cancellation of bail moved by the prosecution is in progress before the Ld. J.M.F.C., Gadhinglaj. Hence, following order is passed.

ORDER

1) The bail application is rejected.

Gadhinglaj.
Date:- 23/12/2024.

(M. A. Shinde)
Additional Sessions Judge,
Gadhinglaj.