

Order below Exh.3 in Spl. (Pocso) Case No.93/2025.
{ Gorakhnath Maruti Joshi Vs. State }

This is an application under section 483 of the Bharatiya Nagrik Suraksha Sanhita 2023 (U/s. 439 of the Cr.PC.) for grant of bail after filing of charge-sheet in CR I-58/2025 registered with Ghoti Police Station under section 64, 65(1), 75 of the Bharatiya Nyay Sanhita, 2023 and sec. 4,6,8,12 of the POCSO Act.

2. Perused the application, say of I.O. and charge-sheet. Heard both the sides.

3. Present applicant-accused No.2 is the Maths teacher of the 13 years old victim girl studying in Std. 6th. He is arrested on 8.2.2025.

In the present case there are two accused. Accused No.1 is the Head Master of the School in which the present applicant is the Maths Teacher. On 7.2.2025 when the Maths class was going on the present applicant-accused received phone call from the Head Master to send the victim girl to his house. The present applicant-accused asked the victim to go to the house of accused No.1 by stating that her grandmother has come over there. The victim was raped by accused No.1. She returned back to the school at about 2.00 p.m., crying. She disclosed the incident to her two friends. The present applicant-accused along with the victim and her two friends went in empty class room. She was bleeding, the present applicant-accused gave money to purchase pad. In the evening she returned home. The victim is residing with her grandmother and her parents are residing at Panvel. The parents of the other girls went to her house and inquired thereafter this complaint came to be registered.

4. Ld. Advocate for applicant-accused submitted that, the main accused is the Head Master, who has committed the offence of

rape. Present applicant-accused was teaching in the Class, when he received the message from the Head Master to send the victim to his house because her grandmother has come. It is submitted that present applicant-accused do not have any role in the offence of rape. He had to obey the orders of the Senior Head Master. He is innocent, his children are also in Std. 10th, studying in same school. From the statement of one girl student who is the friend of victim, it is shown that even the present accused started crying when he came to know about the incident. He also inquired with the victim whether she wants to take some action but at that point of time she said not this time. It is submitted that, there is no necessity to keep the accused in jail. He is already suspended. He will not go to the school. He will remain present for the trial.

5. Ld. APP has submitted that, the present applicant-accused ought not to sent the girl child out of the school. The girl child during the Sankrant Festival went to give Tilgul (Sweet) to the Head Master and he touched her breast. The accused has helped main accused in committing the aggravated penetrative sexual assault on the victim who is his student. The grandmother never came to the house of accused No.1. No parents goes to the house of the Head Master. From the statements of the other two girls students, who were taken with the victim in the separate class room, Ld. APP pointed out that, after victim disclosed the incident, the present accused instead of informing to her parents, instead of informing to the police, he had stated that, **“if we increased this matter it will cause defamation of the village as well as of the school, therefore it is better to suppress this matter so that nothing will happen”**, to which the victim replied that, **“how many days she should suffer in this manner”**.

Ld. APP submitted that, accused being the class teacher, he is

trying to protect accused No.1 Head Master. If he is released the witnesses who are also girls students and who have direct information from the victim as well as heard and seen the way present applicant-accused shown disinterest to help, will not depose freely. This will have direct effect on the prosecution case and it will be against the spirit of protecting children from sexual offences. In present case though rape is committed by accused No.1, the present accused has abated the offence, helped accused No.1. He has failed in discharging his duty. The said offences are also very serious and punishable more than 7 years.

Ld. Advocate for the accused submits that, this accused was unaware of the incident, he is working under the Head Master and had to send the girl as called by the Head Master. He has no intent that she should be subjected to rape. He is innocent. He himself was under the pressure of Head Master.

6. It is seen that, the victim's other school friends with their parents went to the house of victim and the matter was then reported to the police. The present accused was in the Class Room and he was trustee of the students in the Class. Instead of protecting the students he had aided in the offence. It is seen that, after victim returned back to the school from the house of Head Master, she was crying and disclosed the incident to the present accused and her two friends but he did not report to the police nor send her for medical. He has given Rs.50/- to her for purchase pad because she was bleeding. Thus, a girls students whose parents are residing in Panvel, he did not inform her parents or to her grandmother. He left the child to suffer on her own knowing that she is below 14 years. He has tried to convince the victim not to raise the matter as it will cause defamation to the school and to the village. This clearly shows that, accused No.2 wants to support the

Head Master, who has committed rape. The accused No.2 being a teacher, has knowledge that wrong act is committed on the victim his student. He is having his own children studying in the same school. He is also a parent. He has not played his role to protect, to give timely aid to the victim and to report the matter to the police. He is therefore more concerned in protecting the Head Master. This shows that it is very risky to give bail to him because he will see to it that, the other students who are also minors should not depose in favour of the victim.

It is seen that there are direct witnesses who have interacted with the victim as well as the present applicant-accused. They have seen the applicant-accused getting the phone call and sending the victim out of the class to go to the house of accused No.1 Head Master. On perusal of the statement U/s. 183 of the BNSS of the victim, it reveals that after the rape is committed accused No.1 comes back to the school and now inquired with the victim if she is well and wants any chocolate biscuits. A day prior to the incident, it was her birthday and this Head Master send her two packets of chocolate which were distributed in the school. Next day he called her home during school hours through present applicant-accused. After she disclosed the present incident to the present accused, he is telling not to raise the matter as it will cause defamation to the school and to the village, which is very serious conduct. If such person is shown leniency, it will put other girls students at risk and children will not be safe in the most respected institute of school. Taking into consideration the post of a teacher, parents and children have faith in the teacher but here the present accused along with the Head Master have made school a place which is unsafe for girl students, which is very dangerous act. I am not agreeable with the submission that, main accused is the Head Master, who committed rape and present accused is innocent and has no role.

The statements of the victim and her two friends recorded by Ld. Magistrate clearly shows present accused is supporting the offender of serious offence and wants to suppress the matter. He is therefore going to get pressurize by accused No.1 and he is misused his position, he will dominate the girl students, who are continuing education in the school. If he is released on bail, it will indirectly have effect on the girl students, who are witnesses. They will be under fear and it will affect the recording of evidence and trial.

The victim is coming from village. The charge-sheet also shows that, one relatives of victim learnt about the incident and came to the house of victim and inquired with her. It shows that, this being a village, accused are persons of dominance. It is easy to put pressure on witnesses. In my view, the offence against accused No.1 and 2 is most serious and heinous. They are persons holding position of faith and respect. Till the trial is over, it is necessary to keep them in jail, so that the victim and her two friends who are also minors can depose freely without any pressure. This is a fit case not to grant bail. Hence, the following order.

ORDER

1. Bail Application Exh.3 is hereby rejected.
2. Inform to the concern police station.

Date: 17.04.2025. (Smt. Priti Kumar Ghule)
Special Judge (Atrocities on Women) and
Additional Sessions Judge-5,
Nashik.