

ORDER BELOW EXH. 6

1. Perused application and say. Heard ld. advocate for the applicant, ld. APP for the State and the informant.
2. The present application has been filed by the applicant/accused No.1 Mayur Krushna Bhavsar (Hereinafter referred to as 'the applicant' for the sake of brevity) for bail under Section 439 Cr.P.C. in C.R.No.216/2022 of Bhadrakali Police Station. He has been charged with the offences punishable under Sections 305, 306, 498-A r.w. 34 of the Indian Penal Code, 1860, under Section 4, 8, 12 17 of the Protection of Children from Sexual Offences Act, 2012 and under Section 9 of the Prohibition of Child Marriage Act, 2006.
3. It has been contended on his behalf that the applicant has not committed any offence and has been falsely implicated. He had never harassed the victim physically or mentally. He and the victim had a love marriage. The informant has lodged the FIR as he has lost his daughter. The charge-sheet has been filed. The applicant belongs to a reputed family. He does not have any criminal antecedents. If released, he will abide by all the conditions imposed by the Court. It is prayed that the applicant may be released on bail.

4. The say of the I.O., ld. APP and the informant was called for. The I.O. has filed his say at Exh.8. Ld. APP has adopted the same vide the pursis at Exh.7. They have opposed the bail application on the ground that the offence is very serious in nature. The victim was subjected to physical and mental harassment by the applicant. If released, he may abscond. He may even try to threaten or pressurise the informant or the witnesses. It is prayed that the application may be rejected.

5. The informant has filed his say at Exh.9. He has submitted that he has no objection to grant bail to the applicant.

6. Ld. advocate for the applicant argued that The applicant was not present on the spot of the incident at the relevant time and had gone out for work. Nothing is to be seized from the applicant. The charge-sheet has already been filed. The other accused are on bail. He prayed that the applicant may be released on bail.

7. Ld.APP argued that the victim had committed suicide as the applicant and his family members used to harass her physically and mentally. The victim could not bear the continuous harassment. The applicant is the responsible for the victim's suicide. Ld. APP argued that the applicant may threaten or pressurize the witnesses. The application may be rejected.

8. The informant was present before the Court. He submitted

in open Court, in the presence of ld. APP that he has no objection to grant bail to the applicant.

9. In the present case, on perusal of the material before the Court, it can be seen that the other accused persons have already been released on bail. The trial may take some time to commence and achieve finality. The Investigating Officer and the ld. APP have not brought any material on record to justify further custody of the applicant. No purpose will be served by keeping the applicant incarcerated indefinitely. As regards the question of threatening or pressurizing the informant or the other witnesses is concerned, imposing appropriate conditions in that regard will serve the purpose. The Hon'ble Apex Court has, in a catena of judgments has held that bail is the rule and the jail is the exception. Considering the facts and the circumstances of the case, I proceed to pass the following order :-

ORDER

- 1 The application is allowed.
2. The applicant i.e. accused No.1 Mayur Krushna Bhavsar be released on bail on executing P.B. and S.B. of Rs.15,000/- in Spl.(POCSO) Case No.202/2022 (C.R.No.I- 216/2022 of Bhadrakali Police Station for the offences punishable under Sections 305, 306, 498-A r.w. 34 of the Indian Penal Code, 1860, under Section 4, 8, 12 17 of the Protection of Children from Sexual Offences Act, 2012 and under Section 9 of the Prohibition of Child Marriage Act, 2006.

3. He shall not act in a manner prejudicial to the interest of the prosecution and shall maintain law and order.
4. He shall not to contact the informant or his family members and shall not directly or indirectly make any inducement, threat or promise to the informant or any other person acquainted with the facts of the case so as dissuade that person from disclosing such facts to the Court or to any police officer.
5. He shall not enter the vicinity where the informant resides/works.
6. He shall furnish his Aadhar Card, proof of his current and permanent residence and mobile number/s.
7. He shall inform the Court if he changes his residential address.
8. He shall not leave India without the prior permission of the Court.
9. If the applicant commits breach of any of the above condition, the bail granted to him shall be liable to be cancelled.

(Dictated and pronounced in open Court)

Date : 07/12/2022
Place: Nashik

(S.N.Bhalerao)
Special Judge, Nashik