

MHNS070000892020

**S.C. No.17 of 2020**State of Maharashtra
Vs
Ashok Dipak Jadhav**ORDER BELOW Exh.10**
(Passed on 14/11/2024)

1. This is successive application for bail filed on behalf of accused in connection with C. R. No.178 of 2019 registered at Satana Police Station for the offence p/u/s 363, 376(3) of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offenses Act, 2012.
2. Ld. APP for the State has opposed the application by filing written say of I.O. at Exh.11.
3. Notice of this application was issued to the informant/victim. She appeared and opposed the application by filing her say at Exh.17.
4. Heard, Shri. S.M. Mankar, Ld. advocate for the applicant-accused, Shri. S. K. Sonawane, Ld. APP for the State and the informant /victim in person. They argued vehemently.
5. Ld. Advocate for the accused submitted as under :-
In connection with above mentioned crime the applicant-accused is arrested on 17/11/2019 and after sufficient police custody he is remanded in Magisterial Custody on 21/11/2019. Alleged offences are not committed by the applicant-accused. He has no concern with the alleged offence. He is in Jail for more than 4 years 10 months period. Charge-sheet is filed however, it will take time for the conclusion of trial. Parents of applicant-accused are age old persons. Earlier bail application filed on behalf of applicant-

accused is rejected. Therefore, he has filed the present successive application. There is no eye witness to the alleged incident. Applicant-accused is falsely implicated. He has no criminal antecedents. He is ready to abide all conditions of bail. Therefore, regular bail be granted to applicant-accused.

6. Ld. Advocate for the applicant-accused submitted that victim on her own left her house and accompanied the applicant-accused and stayed with him therefore, the applicant-accused has not kidnapped the victim and committed the alleged offence. In support of his submission he relied on the case of *Nitin Damodhar Dhaberao V/s. State of Maharashtra reported LAWS(BOM)-2024-1-231*.

7. On the other hand, the Ld. APP for the State and informant/victim in person submitted as under:

The offence is under POSCO Act. The applicant-accused has committed rape on minor girl/victim. The applicant-accused was having knowledge that the victim is minor and her age was 13 years old, still he committed said offence. In the medical report it is noted that sexual intercourse was done with the victim. The informant/victim in her police statement and also in her evidence before the court has specifically stated that the applicant-accused committed sexual intercourse against her will. The informant/victim was minor at the time of incident. Therefore, even if it is assume that she had given consent it is not consent in the eyes of law. Earlier bail application, filed after the filing of chargesheet has been rejected by the Ld. Predecessor of this Court. There is no change in circumstances. Therefore, successive bail application is not tenable. If bail is granted to applicant-accused he will pressurize the informant, victim and other witnesses. Further, there will be danger to the life of the victim. Also there is possibility of absconding of applicant-accused. Therefore successive application for bail should be rejected.

8. Admittedly, charge-sheet is filed against applicant-accused for the offence p/u/s. 363, 376(3) of the Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act, 2012. From the police papers and documents seized by the police prima facie it appears that at the time of alleged incident the victim was 13 years old. Record shows that already charge is framed against applicant-accused and examination-in-chief of victim is recorded at Exh.17. Victim has deposed that when the alleged incident took place she was 13 years old and accused was following her and saying her he loves her and if she would not talk with him, he would commit something wrong with his life. The victim has further deposed that on the day of incident the applicant-accused compelled her to sit on his motorcycle and he took her at the house of his friend and when both were residing in that house the applicant-accused committed sexual intercourse with her for many times against her will.

9. Admittedly, earlier bail application of applicant-accused is rejected on merits vide order dated 27/08/2020 below Exh.5. Charge framed against applicant-accused is in respect of offence p/u/s. 363, 366-A, 354-D and 376(2)(n) of the Indian Penal Code and Section 6 of the POSCO Act. The trial is already started and it can be expedited. There is substantive evidence against applicant-accused showing his involvement in committing the alleged offences. I have gone through the case law on which the Ld. Advocate for the applicant-accused is relying. The said case law is not applicable to the present case as in the present case already trial is started and there is substantive evidence of victim against applicant-accused. Therefore and considering the nature of offence registered against the applicant-accused, punishment prescribed for the said offences and the objections raised by the Ld. APP for the State and the

informant/victim, it can be said that this successive application for bail is liable to be rejected. As such, the application is to be rejected. Hence, I pass the following order.

ORDER

1. The application is rejected.
2. Inform accordingly, to the D.G.P./PP and Police Station Officer of concerned Police Station.

(Soft copy of this bail order be sent to the concerned Jail Authority through E-mail for providing its copy to the accused.)

Date- 14/11/2024.
Malegaon.

(K. R. Patil)
Addl. Sessions Judge, Malegaon.
Dist. Nashik.