

MHNS070000892020

S.C. No.17 of 2020



The State of Maharashtra
Vs
Ashok Dipak Jadhav

ORDER BELOW Exh.25
(Passed on 01/08/2025)

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.27.
3. Notice of the application was issued to the informant and victim. She appeared and opposed the bail application by filing her written say at Exh.30.
4. Heard, Shri. N.P Marchant, Ld. advocate for the accused and Shri. S. K. Sonawane, Ld. APP for the State. Both argued vehemently.
5. Ld. Advocate for the accused submitted as under :-

The accused is languishing in jail for more than 5 ½ years. The accused is the earning member of his family As he is in Jail, his family members are suffering from starvation. He is having permanent residence and if he is released on bail he will not abscond and will commit breach of the terms and conditions of bail. There is no progress in the trial as the witnesses of the prosecution are not remaining present. His earlier bail applications are rejected. However, in the

change circumstances this application for regular bail is filed on behalf of accused. He has not committed the alleged offence. Article 21 of the Constitution guarantees personal liberty. The accused is in Jail for more than 5 years and it will take time for the conclusion of trial and the decision of the case. Therefore, in view of the directions given by the Hon'ble Supreme Court and the Hon'ble High Court in various case laws, the accused should be released on bail. The victim on her own gone with the accused and stayed with the accused, therefore, sections levelled could not be attracted against accused. The accused was 25 years old and even though his earlier bail applications are rejected, in the changed circumstances he is entitled for bail. Therefore, the application should be allowed and bail be granted to the accused.

6. Ld. Advocate for the accused submitted that personal liberty is guaranteed under Article-21 of the Constitution of India and in the present case the accused is in Jail for more than 5 ½ years, therefore, he is entitled for bail. In support of his submissions, the Ld. Advocate for accused relied on the following case laws-

- 1) **Athar Parwez V/s. Union of India 2025(1) Crimes 90 (SC)**
- 2) **Amarjeet Pandey V/s. State of UP and Ors. 2025(2) Crimes 316 (All.)**
- 3) **Vihaan Kumar V/s. State of Haryana and Anr (Arising out of Special Leave Petition (Crl.) No. 13320 of 2024**
- 4) **Santosh Pralhad Waghmare V/s. The State of Maharashtra 2025 ALL MR (Cri) 1003**
- 5) **Pritesh Adkonkar V/s. State of Goa and Anr 2025 ALL MR (Cri) 666**
- 6) **Gujddu Soubhan Harijan V/s. The State of Maharashtra 2025 ALL MR (Cri) 849**
- 7) **Mandip Gyan Singh V/s. The State of Maharashtra 2025 ALL MR (Cri) 2218**
- 8) **Vikas Chandrakant Patil V/s. The State of Maharashtra 2025 ALL MR (Cri) 2372**
- 9) **Avinash Ajay Benewal V/s. The State of Maharashtra 2025 ALL**

MR (Cri) 2268

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 accused has committed rape on minor girl i.e. victim. The accused was having knowledge that the victim is below 18 years of age as at the relevant time her age was 13 years and 6 months, still he committed said offences. In the medical report Doctor has opined that sexual intercourse has been done with the victim in past. As per the medical report of accused he is capable of performing sexual intercourse. The informant/victim in her police statement and also in her evidence before the Court has specifically stated that the accused committed sexual intercourse with her against her will. The victim was minor at the time of incident. Therefore, even if it is assumed that she had given consent it is not consent in the eyes of law. Earlier bail applications, filed after the filing of charge-sheet are already rejected on merits. The delay in proceeding with the trial is caused because of filing of applications on behalf of accused. There is no change in circumstances. Therefore, this successive bail application is not tenable. Further, if bail is granted to accused he will pressurize the informant, victim and other witnesses. Further, there will be danger to the life of victim. Also there is possibility of absconding of accused. Therefore, this successive application for bail should be rejected.

8. Admittedly, charge-sheet is filed against accused for the offence p/u/s. 363, 376(3) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012. From the police papers and documents seized by police during investigation, prima facie it can be said that at the time of alleged incident the age of the victim was 13 years 6 months. Record shows that already charge is

framed against accused and examination-in-chief of victim/PW 1 is recorded at Exh.17. She has deposed that when the alleged incident took place she was 13 years old and accused was following her and saying her that he loves her and if she would not talk with him, he would commit something wrong with his life. The PW 1/victim has further deposed that on the day of incident the 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 accused repeatedly committed sexual intercourse with her against her will.

9. Charge framed against 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 two witnesses are examined by the prosecution. There is substantive evidence against accused showing his involvement in committing the alleged offences. Record shows that bail applications filed on behalf of accused after the filing of charge-sheet are rejected on merits.

10. I have gone through the case laws on which the Ld. Advocate for the accused is relying. The said case laws are not applicable to the present case as the facts and circumstances of the cases discussed in those case laws are different from the facts and circumstances of the present case. In the present case, trial is already started and there is substantive evidence of PW 1/victim against accused showing his involvement in committing the alleged offences. Therefore and considering the nature of offences for which the accused is facing trial, punishment prescribed for the said offences and the objections raised by the Ld. APP for the State and the victim in person, it can be said that this successive application for bail is liable 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- 01/08/2025.
Malegaon.

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