

MHNS070013472020



**In the Court of Extra Joint District Judge and Additional
Sessions Judge, Malegaon, Dist. Nashik.**

State of Maharashtra. .. Complainant.

Vs.

Sharad Dadaji Pawar .. Accused.

Order below Ex.06 in Session Case No. 154/2020

1. Read application filed by this accused at Ex. 06 and say to it by learned Sp.P.P. at Ex.07.

2. This application is so made by this accused u/sec. 439 of Cr. P.C., 1973 to release him on bail in connection with this offence C.R.No. 509/2020 registered against him at Jaykheda Police Station for all such offences punishable u/sec. 376(3), 376(2)(f)(i), 323, 506 of I.P.C. and u/sec. 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012. Prosecution has already filed this present chargesheet against him for all such aforesaid offences raising a charge against him that taking a disadvantage of the minority of his own daughter, this accused ever beat her and threatened to kill her and then, against her will, always raped her and then, made her pregnant and thereby, committed aforesaid offences.

3. Heard both the sides. Advocate for accused submitted that this

accused has been falsely involved in this offence and in fact, he has not committed any offence, but then, facts were twisted and a foul play came to be made by prosecution against this accused and then, so came to be charged for all such offences. He submitted that till this day, there is no report of C.A. for which all such charges are levelled against him and there is no strong and sufficient evidence against this accused to find his culpability in this offence. He submitted that this accused is behind bar since his arrest on 16.10.2020 and in order to have a fair opportunity to face such trial, he needs to be released on bail and he would abide by all the terms of the bail as may be imposed by this Court on him and then, he made a earnest request for releasing him on bail. He, further, submitted that there was a matrimonial dispute between the father and mother of this victim-girl and then, that mother of the victim-girl managed to get filed such a false case against this accused through that victim-girl – daughter. He, therefore, urged for such bail.

4. On the other hand, learned Sp.P.P. strongly opposed this application with a submission that complainant and accused are having a close relationship viz. daughter and father and still, this accused doing all such criminal acts with his own daughter repeatedly raped her and then, made her pregnant and that it is a strong circumstance against him for rejection of any such request for bail. He submitted that if this accused is released on bail; then, he would pressurize all the material witnesses viz. a victim-girl and his own wife and then, that would cause a serious injustice to the witnesses

themselves. He, further, submitted that there is a strong medical evidence against this accused as to this victim-girl being so raped and then in her own statement recorded by learned Magistrate u/sec. 164 of Cr. P.C., 1973 dated 28.10.2020, she has, in the immediate time, disclosed the same facts as to this accused making such repeated rapes on her and therefore, there are strong evidential circumstance against this accused and in no case, his application is sustainable. He, therefore, urged for rejection of the application.

5. After hearing both the sides and going through the entire record of this case, it can be seen that this victim-girl herself is complainant in this case and she is appearing to be of just 14 years and 3 months old on the day of such complaint dated 15.10.2020 and she has stated in her such complaint all about such alleged sexual acts of this accused and he ever raping her till last 14.10.2020. Then, there are material statements of the witnesses viz. the mother of this victim-girl; and her own cousin, Ganesh Nanaji and aunt, Ranibai, who all have stated in their such oral statements dated 16.10.2020 as to what they learnt from the victim-girl herself about such sexual acts of this accused. Then, there is such statement of this victim-girl u/sec. 164 of Cr.P.C., 1973 dated 28.10.2020; wherein also, she has stated as much the same facts against this accused what she has narrated in her own complaint. It is a fact on record that after her such medical examination, she got aborted with the medical advice.

6. There is medical examination report of her dated 15.10.2020

which shows that after her such medical examination, she was found habituated to sexual intercourse and then, her ultra-sonography also came to be made; wherein, it is also reported finally that sexual intercourse has occurred with her, as so reported on 15.10.2020. This kind of evidence leads strong evidential circumstance against this accused and whatever stand is taken by him for his request for release on bail, is a self satisfactory one and no defensive ground can be taken for any such consideration for such release on bail that there were previous quarrels between father and mother of this victim-girl and then, for that reason, such a false case came to be filed against him.

7. In fact, there is strong evidential case against this accused which speaks volume against him and he can not simply seek mercy of the Court for making such request for bail. As a matter of fact, he has every right to defend himself in a right manner when proceeding with the trial, but at present, in case, even if he is released on bail, there is every possibility for he tampering with the prosecution evidence for the victim-girl being a minor one and her mother is also one of the important witness in this case. The objections so raised by prosecution are therefore, proper and justifiable and considering all these facts and circumstances on record, application does not lie at all and therefore, in the interest of justice, it is rejected.

Date : 12.05.2023.
Place : Malegaon.

(S. C. Magare)
Extra Joint District Judge and
Additional Sessions Judge,
Malegaon.