

MHNS070022052019 **Spl.Atrocity Sessions Case No. 19/2019**



Bhushan @ Bholya Punjaram Khairnar Vs.
State

Order below Ex. 8 :-

The applicant has filed this successive application for regular bail under Section 439 of the Code of Criminal Procedure in Crime No. I- 94/2019 for the offences punishable under sections 376(2)(N) of I.P.C., U/s. 4,6 & 8 of POCSO Act and U/s. 3(1)(W), 3(2), 5(a) of the Scheduled Caste and Scheduled Tribes (3(2)(v-A) of Amended Act, 2015 registered at Vadner-Khakurdi Police Station.

02] In brief the case of prosecution is that on 08-09-2019 informant Neha @ Nutan Vinod More lodged the complaint to the police station. She alleged that, she is studying in 10th standard and 17 years old. He was acquainted with applicant/accused since her 6th standard. In January, 2019 applicant/accused asked her to marry with him and in the pretext of marriage, he kept the physical relation with her. Therefore, in April 2019 also he again kept relation with her. She was pregnant from the applicant/accused. In June 2019, she told him about her pregnancy, since then applicant was avoiding her. On 01/09/2019 when she met with applicant/accused, he denied his paternity. Hence, informant lodged the complaint to the police station. On the basis of her statement, police has registered the aforesaid crime against

the accused.

03] Notice was issued to the informant also. But, Informant did not appear.

04] The learned APP Shri Pagare, filed his Say at Exh. 10, inter-alia contending that offence is serious. Applicant has performed sexual intercourse with the victim under the pretext of marriage. If he is released on a bail, he will pressurize the informant and witnesses. He will not made available for the trial. Ultimately, he rejection of the application.

05] Heard the learned advocate M.D. Hiray, for the applicant and learned A.P.P. Pagare, for the State.

06] Perused the documents on record, it appears from the statement of victim that applicant/accused has kept physical relations with her under the pretext of marriage and when she was pregnant then he discard his relations with the informant. Informant is minor. Her consent was obtained by fraud. At present informant is residing in Reformatory House. Previous bail petition was rejected on the same ground. In this context, learned advocate Shri. M.D. Hiray argued that in bail petition, at Para. 6 they have specifically mentioned that the age of accused is 19 years, therefore, there is legal difficulty to perform the marriage. Accused is ready and willing to perform the marriage after attaining the age of 21 years.

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However, in my opinion assurance by accused to perform the marriage with victim can not be the ground to grant the bail to him. Hence, I pass the following order.

ORDER

The application is hereby rejected.

Malegaon
Date 07-03-2020.

(Aniruddha Subhash Gandhi)
Additional Sessions Judge,
Malegaon.