

**ORDER BELOW EX. 03 IN SPECIAL (POCSO) CASE NO. 32 OF
2024**

(The State of Maharashtra through Vadner Bhairav Police Station
Vs. Chetan Ankush Chatur)

01] Applicant/accused Chetan Ankush Chatur, resident of Pithe Vasit, Vadali Bhoi road, Tq. Chandwad, Dist. Nashik has filed this application under section 439 of the Criminal Procedure Code, after filing of the charge sheet. He is arrested in Crime No. 51/2024 registered at Vadner Bhairav Police Station for the offences punishable under sections 363, 366A, 376(2)(J)(N) of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

02] **Brief facts leading to the case of prosecution are as under :-**

Informant Mangala is mother of minor victim 'J'. She lodged with Vadner Bhairav Police Station on 20.02.2024 stating them that her minor daughter 'J' aged about 17 years, 7 months and 27 days was present in the house on 19.02.2024. At about 07.15 p.m., 'J' informed the informant that she is going to see the procession on account of Shiv Jayanti, but, did not return to the house till late night. Therefore, the informant and her inmates searched her, but could not find out. Therefore, the informant lodged complaint with Vadner Bhairav Police Station as stated above. On the basis of said complaint, crime came to be registered against unknown person for the offence punishable section 363 of IPC During the course of investigation, it was revealed that the accused Chetan Chatur kidnapped the victim by giving false promise of marriage. They stayed at village Khadak Tale in the

house of his cousin. Subsequently, they went to village Meshi, Tq. Deola and stayed there as a husband and wife. The accused committed rape on minor victim.

03] Heard learned Advocate for applicant/accused. He submitted that the applicant/accused is falsely implicated in this crime. The alleged offences punishable under section 376 of I.P.C. and sections 4 of POCSO Act are not applicable in the present case. The accused and the victim were in love relations and they eloped from the house. The victim is at the verge of majority. She is aware of relations between man and woman and consequences of her acts. Investigation of the crime is completed. Charge-sheet has been filed against the accused in the Court. The accused is behind the bars since 11.03.2024. There is no need to keep the accused behind the bars for indefinite period. It will amount to pretrial detention. The accused is ready to abide conditions of the bail. Therefore, he prayed to allow the application.

04] Heard learned APP Shri. R. L. Kapse for the State. He vehemently submitted that applicant has committed serious offence of rape. Prima-facie case is made out against the accused. At the time of offence, the age of the victim was about 17 years 7 months and 27 days. She was minor. Her consent is no consent in the eyes of law. There is every possibility that the accused may tamper with the prosecution evidence, if released on bail. Therefore, considering seriousness and gravity of the crime, he prayed to reject the application.

05] Upon hearing the learned advocate for applicant/accused, learned APP and on perusal of the documents on record, it appears that the alleged offence is of very serious

nature. The prosecution has prima-facie proved involvement of applicant in the alleged crime. At the time of commission of crime, she was aged about 17 years 07 months and 27 days. Therefore, prima-facie, it appears that the accused has committed offence punishable under section 376 of IPC. Punishment of imprisonment for life is provided for the alleged offence punishable under section 376 of I.P.C.

06] The accused is aged about 23 years and minor victim is aged 17 years 07 months and 27 days. The victim in her statement before police and statement under section 164 Cr.P.C. has admitted that she had love relations with the accused since last three years. She eloped with him to perform marriage. Though, she has stated that the accused kept physical relations with her against her wish, no physical violence can be seen from the perusal of medical reports on record. Considering all these facts and circumstances on record and considering the observations of Hon'ble Bombay High Court in the case of **Sunil Mahadev Patil Vs. State of Maharashtra – BA No. 1036 of 2015 dated 03.08.2015** and in case of **Satya Ramchandra Fulore vs. State of Mah. reported in 2015 ALL M. R. (Cri) 2785**, I found that present case is also a case of love affair in between accused and victim. There was no act of violence on the part of the accused. The victim had attained age of understanding. She was full aware of consequence of her acts. Investigation of the crime is completed, charge-sheet has been filed in the Court, therefore, there is no need to keep the accused behind the bars for indefinite period and therefore, the application deserves to be allowed. In the result, I pass the following order.

ORDER

- 1] Application is allowed as under.
- 2] The applicant/accused Chetan Ankush Chatur, resident of Pithe Vasis, Vadali Bhoi road, Tq. Chandwad, Dist. Nashik be released on bail on furnishing PR Bond sum of Rs. 50,000/- (Rupees twenty five thousand only) and one surety of like amount in connection with Crime No. 51/2024 registered at Vadner Bhairav Police Station for the offences punishable under sections 363, 366A, 376(2)(J)(N) of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.
- 3] The applicant/accused shall attend the Court scrupulously on every date and shall not tamper with the prosecution witnesses in any way and in any manner, particularly should not contact to the victim, in default his bail is liable to be cancelled.

(Dictated and pronounced in open Court.)

(A.V. Gujarathi)
Additional Sessions Judge,
Niphad.

Date : 15.06.2024