

**ORDER BELOW EX. 4 IN SPECIAL CASE NO. 42 OF 2024**

(The State of Maharashtra through Vadner Bhairav Police Station vs. Vijaypal Balram )

01] Applicant / accused Vijaypal Balram, resident of Word No. 14, Dhaliya, N. G. C. Hanuman Gadha, Sitapur, Rajasthan has filed this application for bail after filing of charge-sheet under section 439 of the Criminal Procedure Code. He is arrested in crime no. 107 2024 registered at Vadner Bhairav Police Station for the offences punishable under sections 363, 366(A), 376 of 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 :-

Mother of minor victim 'M' lodged complaint with Vadner Bhairav police station on 14.04.2024 stating therein that she is residing at village Paregaon, Tq. Chandwad along with her sons and four daughters including minor victim 'M' aged about 16 years and 09 months. On 13.04.2024, at about 10.00 a.m., the informant went to the house of her sister-in-law at about 11.00 minor victim 'M' went to Shri Guruji hospital to check her eyes, but did not return. The informant and her relatives searched her, but, in vein. Therefore, the informant lodged the complaint with Vadner Bhairav Police Station. On the basis of said complaint, crime no. 107 of

2024 came to be registered against the person for the offence punishable under section 363 of the IPC.

03] Thereafter, police searched minor victim 'M'. She was found at Dhaliya, Hanuman Gadh, Rajasthan. She was taken into custody. Minor victim 'M' stated that she got acquainted with accused Vijaypal Balram on Share Chat App. He asked her about her education. Though she was 9<sup>th</sup> std. passed, the accused assured her to give service. On 13.04.2024, accused called her at Nashik road. He booked railed ticket of Mangala Lakshadeep Express for the victim. On 14.04.2024, she reached to Delhi Railway Station where accused met her. Thereafter, they went to the house of the accused at Dhaliya, Tq. Sangariya, Dist. Hanuman Gadh, Rajasthan. The victim asked him about the service, but, he gave evasive answer. He demanded adhar card and school leaving certificate from her. Therefore, the victim called her elder sister and asked her to provide the said documents. But, Yogita did not send the said documents on mobile. On 22.04.2024, in the night, accused Vijaypal committed rape on her in the room situated towards southern side of his house. On 26.04.2024, in the evening at about 05.00 p.m., her cousin Raghunath Bharsat came there along with police and thereafter, she came with them to Vadner Bhairav Police Station. On the basis of her statement, offences punishable under sections 366(A), 376 of Indian Penal Code and under

sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act were added to the crime.

04] Heard learned Advocate for applicant / accused. He vehemently submitted that there were love relations between victim and the accused. The accused and the victim have performed marriage. The victim is at the verge of majority. She is able to understand consequences of her act. Investigation of the crime is completed and charge-sheet has been filed against accused in the court. The accused is in custody since 28.04.2024. 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.

05] 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 16 years and 09 months. She was minor. Her consent is no consent in the eyes of law. This is not a matter of usual love affair between a young girl and a boy. The accused and victim were not knowing each other since prior to one month of 13.04.2024. The accused and the victim got acquainted with each other through social media i.e. Snap-chat application. The accused gave false promise to give service to

her and called her at New Delhi and thereafter, he has taken her to his house at Dhaliya in Rajasthan and committed rape on her. The victim has stated this fact in her statement before 27.04.2024 and in her statement under section 164 of the Cr. P. C. before Magistrate on 08.05.2024. Medical evidence on record also supported her statement. Though charge-sheet has been filed against accused, it appears that strong prima-facie case is made out against accused. 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.

06] Upon hearing the learned Advocate for applicant / accused and 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 16 years and 09 months. Punishment of imprisonment for life is provided for the alleged offence punishable under section 376 of I.P.C.

07] There is nothing on record to show that the accused is falsely implicated in this case. Statements of the victim are consistent. In both the statements i.e. under section 161 and 164 of the Cr. P. C., she has categorically

stated that, the accused take her to his village Dhaliya in Rajasthan by giving false assurance to provide employment and he committed rape on her in his house. From the medical evidence on record, it is crystal clear that there was sexual intercourse with the victim. Her hymen is ruptured. It appears that strong prima-facie case is made out against accused. There is every possibility that the accused may tamper with the prosecution evidence. The accused has committed serious offence against minor girl. He has committed rape on a minor girl which is punishable with imprisonment for life.

08] Learned Advocate for the applicant / accused has relied on the decision of Hon'ble Bombay High Court in case of **Sunil Mahadev Patil Vs. The State of Maharashtra – Bail Application No. 1036 of 2015, decided on 03/08/2015**. But, it appears that this is not just a case of love affair between victim and the accused. The victim and the accused were not acquainted with each other. They got acquainted with each other via social media. The accused by giving her false assurance to provide employment, called her at his place and committed rape on her. There is no substance in the arguments of learned advocate for the accused that the accused and the victim have performed marriage. As the victim has not attained the age of majority, she cannot perform legal marriage. There is no whisper in the statement

of the victim about love affair or marriage with the accused. This case cannot be termed as a normal love affair between accused and the victim. It is crystal clear that there is every possibility that the accused may tamper with the prosecution evidence if released on bail. Considering all these facts and circumstances on record, I hold that the judgment on which learned Advocate for the accused has placed his reliance, is not useful for the accused and accused is not entitled to be released on bail.

09] A feeling would gain ground in the citizenry that persons in position, like applicant can commit the most outrageous acts and yet would be dealt softly by courts. That indeed would be distressing. Larger the most interest of the society is also to be considered while deciding such applications. I, therefore, find that application is devoid of merits. Considering the nature of the offence the applicant / accused is not entitled to be enlarged on bail. In the result, I pass the following order.

**ORDER**

1] The application stands rejected.

( *Dictated and pronounced in open Court.* )

Date : 20.08.2024

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

