

ORDER BELOW EX. 9 IN SPECIAL CASE NO. 42 OF 2024

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

01] By filing this application accused / Applicant has prayed for bail in connection with Crime No. 107/2024 registered with Vadner Bhairav Police Station. His earlier bail application was rejected after the filing of charge-sheet by passing order below Exh. 4, by my learned predecessor.

02] I have perused application and the say of Learned APP and the say of the victim girl. I have heard both the sides.

03] It is argued by learned advocate for accused that there was love affair between the victim girl and accused since prior to the victim's leaving the house. Thereafter, she travelled up-to Delhi without ticket and thereafter she married with accused. He has also produced the copies of the photos of the marriage of the victim girl and accused and the railway fine receipt to show that the victim was traveling without ticket. It is therefore argued that application may be allowed.

04] On the other hand, it is argued by learned APP that victim is a minor girl. Accused gave false promise to the victim girl that he would get job for her though he was knowing that she is minor and 9th pass only. Accused called her to Delhi and he took her to his house and forcibly kept physical

relation with her in his house and the medical report of the victim girl supports the case of prosecution. It is therefore submitted that application may be rejected.

05] My learned predecessor by passing detail order below Exh. 4 rejected the bail application of the accused. By observing in para no. 6 to 9 as under :-

“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.)

06] There is no change in the circumstances from the time of rejection of bail of accused by my learned predecessor. The stage is for recording evidence of the victim girl. Under the circumstances, application is liable to be rejected. Hence I passed following order:-

ORDER

1) Application is rejected.

Date : 24.02.2026

Place : Niphad

(Abdussalam A.A.Shaikh)
Additional Sessions Judge,
Niphad.