

MHNS100009922023



Special Case No.40/2023

State of Maharashtra
through Lasalgaon Police Station
Vs.
Sagar Sanjay Pimpale

Order below Exh.4

This is an application filed by accused no.1, for bail as per Section 439 of Code of Criminal Procedure in Special Case No.40/2023, registered on the basis of C.R. No.180/2023 of Lasalgaon Police Station. Said crime is registered for the offences punishable under Section 376, 376 (2)(J)(N), under Sections 4, 8 and 12 of Protection of Children From Sexual Offences Act and under Sections 9 and 11 of Child Marriage Restraint Act r/w Section 34 of Indian Penal Code.

2. Read application and say filed thereon by A.P.P. Notice was issued to the victim. Guardian of victim appeared and filed say below Exh.6 that he has no objection to release the accused on bail.

3. Heard Advocate Shri. Gunjal for the accused and A.P.P. Smt. Bangale for the State.

4. Advocate Shri. Gunjal submitted that accused is arrested in C.R. No.180/2023 of Lasalgaon Police Station registered for the offences punishable under Section 376, 376 (2)(J)(N), under Sections 4,8 and 12 of Protection of Children From Sexual Offences Act and under Sections 9 and 11 of Child Marriage Restraint Act r/w Section 34 of Indian Penal Code. Advocate Shri. Gunjal submitted that accused is falsely implicated in this case. Accused is married to the victim as per custom of his community. Charge-sheet is filed in the case. In such circumstances, no offence is made out against the accused. Hence, accused be released on bail.

5. A.P.P Smt. Bangale submitted that accused has committed serious offence. If released on bail, accused may threaten or induce the prosecution witnesses. Hence, application be rejected.

6. I have gone through the report dated 18/07/2023. It is lodged by Police Officer. When the victim had been to the hospital for treatment of post delivery complications, doctor informed about the age of victim to the Police Officer. Thereafter, statement of victim was recorded. In the report itself, it is stated that present accused is married with victim. It is argued for accused that he has performed second marriage as per the rites and custom of their community.

7. I have gone through the statement of victim recorded by Addl.Chief Judicial Magistrate Niphad. Victim has

also stated that she is married to the accused. There is no allegation of forcible intercourse against the accused. Hon'ble Bombay High Court in the case of **Sunil Mahadev Patil Vs. State of Maharashtra [Bail Application No.1036 of 2015]** in para 12 has laid down the guidelines while deciding bail applications.

“12. The overall considerations while deciding such applications can be summed up as -

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

- (i) What is the age of the prosecutrix, who is minor.*
- (ii) Whether the act is violent or not.*
- (iii) Whether there are antecedents or not.*
- (iv) Whether the offender is capable of repeating the Act or not.*
- (v) Whether there is likelihood of threats or intimidation, if at all the boy is released.*
- (vi) Whether any chance of tampering with the material witnesses when their statements are recorded.*
- (vii) It is also to be taken into account in such cases that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future.”*

7. In this case, age of the victim at the time of lodging the report is shown as 17 years and 5 months. There is no allegation of violence by victim against the accused. The accused is shown to be 25 years of age. Charge-sheet is filed in this case.

In such circumstances, no purpose will be served by keeping the accused in jail. On the contrary, accused needs to be released on bail by imposing certain conditions. Hence, I pass the following order.

ORDER

- 1) Application is allowed
- 2) Applicant/Accused Sagar Sanjay Pimpale is released on bail in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one surety of the like amount and upon conditions that
 - (a) The applicant/ accused shall not cause inducement or threat to the prosecution witnesses and shall not contact the victim in any manner till conclusion of trial. On failure to comply the conditions, bail is liable to be cancelled.
 - (b) The applicant / accused shall regularly attend the proceedings unless exempted.

Place: Niphad
Date : 04/12/2023

sd/xxx
(B.D. Pawar)
Additional Sessions Judge
Niphad.