

CNR MH0S01-001674-2021.

Order below Exh.4

1 This second bail application after filing the charge-sheet has been moved by accused under Section 439 of Cr.P.C. Accused is the Police Naik Buckle No.1554 deputed in Police Head Quarter, Osmanabad. He is booked by Osmanabad City Police Station under Crime No. 69/2021 for allegedly committing an offence punishable under Section 376, 306, 506 of I.P.C.

As per the F.I.R., case of prosecution in brief, is as under :

2- Complainant Uttam Narayan Shinde was residing at Jadhavwadi Osmanabad along with his second wife from last Six years. Accused was the tenant of the neighbour's house. There was friendly relation in between the daughter of accused and daughter of complainant. Whenever the victim went to the house of accused, he shown sympathy. On 30th January 2021, victim was crying and told to the complainant that in the month of September at about 06.00 p.m., accused entered in her house, she was alone, accused took advantage of his authority and forcibly had sexual intercourse. Accused gave threats that he will keep her husband behind the bar, if she disclose the offence. Accused snatched photographs in his concealed camera and also threatened to defame her. He had forcibly committed sexual intercourse with the wife of complainant several times. The said incident led her to suicide. She left suicide note mentioning the name of the accused.

3- Learned D.G.P. filed say at Exh.06 and raised objection that accused has committed the said offence, in spite of due legal knowledge. If he is released on bail, he will destruct the material evidence and he will pressurize the prosecution witnesses. Therefore, considering the severity

of the offence, application may kindly be rejected.

4- Heard Learned Advocate Mr. A. A. Pathrudkar on behalf of accused and Learned D.G.P. Mr. S. B. Jadhavar on behalf of State.

5- Learned Advocate Mr. Pathrudkar argued that the present F.I.R. is an after thought of previous hostility between the parties. There is no written complaint about the said incident prior to the present F.I.R., though the offence was disclosed in the month of January. Accused is in M.C.R. Investigation is almost completed and charge-sheet has been filed. Due to ill-treatment at the hands of husband, victim has committed suicide. He has given much stress on the statement of father and brother of victim and submit that husband was demanding valuables and subjected her with cruelty. Therefore, she has no alternative except to end her life. Thus, accused has no concern to the alleged crime. The C.A. reports are awaiting. The daughter of accused is studying in 12th standard and son is studying in 9th Std.. The trial will take its own time. Hence, he prayed that there is no need for further detention of the accused.

6- On the contrary, Learned D.G.P. argued that the accused forcefully has sexual intercourse with the wife of complainant at several times. The accused further threatened to put the informant behind jail using his authority. He further threatened to leak the victim's pictures, if she inform about the said incident to her husband or else. It is alleged that the victim after being exhausted with the threats of the accused, committed suicide by hanging herself, in the under construction property of the accused. The victim left, a death note blaming the accused for her acts. Considering the severity of the offence, bail application may kindly be rejected.

7- I have gone through the charge-sheet. The F.I.R. as well as the statement of father of victim, sister of informant and all the close relatives. These statements are prima-facie disclosing that accused forcefully had sexual intercourse with the victim. The child witness has made bold statement that several times, accused carried her mother to Collector Office Osmanabad, Tuljapur and other lonely places and had committed sexual intercourse. The complainant along with two witnesses approached the Superintendent of Police, Osmanabad and narrated the incident of forceful sexual intercourse. Witness Bhima @ Anna Shankar Jadhav and Pravin Kokate made statement that on 22.2.2021, complainant visited Police Head Quarter, Osmanabad and narrated the incident to R.P.I. Shri.Waghmode. The father of victim viz. Sudhakar Nikam is the retired Head Master stated that victim narrated the incident of sexual intercourse and due to which the relation of husband and wife became strained. Brother of victim viz. Mithun Nikam and Suhas Nikam have stated that due to the ill-act of accused, the relations between victim and informant were not good. In the month of February, informant and the victim approached Advocate D.S.Kolhe. In his statement, Advocate Mr. Kolhe states that victim and informant along with Sudhakar Nikam visited his Office in the month of February. Victim narrated the fact that accused forcefully had sexual intercourse with her. Victim refused to lodge the F.I.R. because accused gave threats that he will kill her husband and daughter. The victim was frightened. The material witness Suman Asaram Sherekar is the sister of informant. She visited house of informant in the month of February. She noticed that accused frequently knocked the door and window and suddenly disappear and thereby causing mental harassment. Due to the harassment at the hands of accused, victim committed suicide by hanging herself in the under construction property of the accused. She has left a death note blaming that accused has

forcefully had sexual intercourse with her. Therefore, she has no alternative except to end the life.

8- The child witness made statement that accused was bringing Ice-cream, Kurkure, Wafers etc. She was kept engaged in the Mobile Game and several times, accused and victim went near Nagnath Temple at Tuljapur as well as Collector Office Osmanabad. The child witness has shown each and every spot pointing out the act of accused.

9- The alleged offence under Section 376 of I.P.C. is serious in nature. The record shows that the accused has committed the alleged acts at several places. Due to the act of accused, the victim lost her life. The offence is cognizable, non-bailable and triable by Sessions Court. The punishment prescribed is rigorous imprisonment of not less than Seven years but may extend to life imprisonment with fine. Accused is the Police Naik. In spite of legal knowledge, he has committed the said offence. Consequentially victim lost her life. There is possibility of pressurizing the prosecution witnesses and tampering of prosecution evidence. The reason that children of accused is taking education is not just reason to entertain the second bail application, after filing the charge-sheet. Therefore, I am of the view that considering the gravity of offence, accused is not entitled to release on bail. Hence, I proceed to pass the following order.

ORDER

Application stands rejected.

Sd/-

(N.H.Makhare)

Additional Sessions Judge-3,
Osmanabad.

Dated : 14.02.2022.

CERTIFICATE

I affirm that, the contents of this P.D.F. file judgment/order are same, word to word, as per the original Judgment.

Name of the Stenographer	: G.M. Burle, Stenographer Grade-I
Court	: Addl. Sessions Court-3, Osmanabad
Date	: 14.02.2022
Order signed by Presiding Officer	: 14.02.2022
Order uploaded on	: 14.02.2022