

MHPA010012932023



ORDER BELOW EXH. 19
IN SPECIAL (POCSO) CASE NO.62/2023
GOKUL s/o RAMA DHOTRE Vs.THE STATE OF MAHARASHTRA.
(PASSED ON 16th DAY OF JUNE, 2023)

The applicant/accused moved this application vide Section 439 of the Code of Criminal Procedure to enlarge him on bail on the ground that there is change in circumstances, investigation is completed, charge-sheet is filed in Court, custody of accused is not required for investigation.

2- Learned A.P.P. filed say on the overleaf of application and objected on the ground that alleged offences are serious one, evidence in the form of C.A. Report is still awaiting, victim is minor, if accused is released on bail then possibility of tampering evidence by accused and pressurizing him cannot be ruled out. On these grounds learned APP prayed to reject application.

3- Victim filed say stating therein to release accused on bail on the condition that accused should not pressurize or caused any undue influence to her family members.

4- I heard the learned APP and the learned defence counsel.

5- Points for the determination and my findings thereon for the reasons stated below;

SR. NO.	POINTS	FINDINGS
1.	Whether grounds are justified to release the applicant on bail vide Section 439 of the Code of Criminal Procedure ?	No.
2.	What Order ?	The application is rejected.

REASONS

AS TO POINTS NO. 1 AND 2 :

6- Perused record. Which shows that charge-sheet is filed against applicant/accused under Section 363,366 A,376 (2)(n) of the Indian Penal Code and under Section 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). Mother of victim gave report in Kotwali police-station on 13.10.2022 that her daughter is missing from the house. As per the school record date of birth of her daughter is 09.02.2006. Statement of witnesses under Section 161 of the Code of Criminal Procedure shows that accused along with victim

had gone to Shahuwadi, District Kolhapur, Patethan, Tq.Daund, District Pune, Kesnand, Tq. Haveli, District Pune. At all these places accused resided along with victim pretending to the witnesses that they are husband and wife. Statement of the victim under Section 164 of the Code of Criminal Procedure shows that accused has taken her at the different places and he established sexual relationship with the victim. Medical evidence on record shows that on examination victim found pregnant. Learned APP submitted that victim is a minor. Though she gave no objection for release of accused on bail, but other evidence in the form of statement of witnesses under Section 161 of the Code of Criminal Procedure shows that accused has committed offence under Section 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012, therefore, it is immaterial that victim gave no objection to release the accused on bail.

7- Learned defence counsel submitted that charge-sheet is filed, investigation is completed, therefore, accused be released on bail. Accused is ready to abide terms and conditions imposed by this Court.

8- School document of victim shows that her date of birth is 09.02.2006. As per report she was missing on 11.10.2022, therefore her age is 16 years, 8 months and 2 days. Thus, the submission of learned APP is correct that victim is a minor. Victim gave say to release accused on bail on condition that accused should not cause any harm to her family members. Though victim gave no objection but this condition itself shows that there is apprehension in the mind of victim,

who is a minor. No doubt, charge-sheet is filed in Court. Stage of matter shows that charge is framed against accused and now it is for recording the evidence of witnesses. Victim is a minor. There are statement on record which shows that accused committed sexual act with the minor at different places. Considering this material on record it would not be proper to release accused on bail. As the matter is at the stage of recording evidence, therefore, it would not be just and proper to release accused on bail, otherwise he will tamper with the prosecution witnesses. It would be just and proper to expedite the matter. Thus, I answer Point No.1 in negative and for Point No.2 pass following order.

ORDER

1.	The application Exh.19 for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant stands rejected.
2.	As accused is in Jail, therefore, matter is expedited.
3.	Prosecution to secure presence of witnesses to expedite the matter.
4.	Inform to Kotwali Police Station, Parbhani accordingly.
	Delivered and pronounced in Open Court.

(Smt. K.F.M. Khan)
Additional Sessions Judge,
PARBHANI.

Date : 16.06.2023.

As per directions of P.O. Dated 28.06.2022

Date of Dictation of Judgment	16 th Day of June, 2023
Date of transcription of Judgment by Stenographer	17 th Day of June, 2023
Date of checking of Judgment by P.O.	19 th Day of June, 2023
Date of signature of P.O. on Judgment	19 th Day of June, 2023
Date of Judgment uploading	19 th Day of June, 2023

I affirm that contents of this PDF file Judgment are same, word by word, as per original Judgment.

Name of Stenographer : R.S. Muley,
Designation : Stenographer Grade-1.