

CNR :MHPU01-003259-2018

ORDER BELOW EXH. 3 IN SPL(Child) SESSIONS CASE NO. 120/2018.

The applicant has filed this application under Section 439 of the Code of Criminal Procedure, for grant of bail in C. R. No. 184/2017 registered at Kondhwa police station, under Section 366-A, 376(2)(j)(n), 506, 323 r/w 34 of the Indian Penal Code and under Section 4, 6, 8 and 12 of The Protection of Children From Sexual Offences Act, 2012. The prosecution has resisted the application by filing written say. Heard learned Advocate Shri. Maindad for the applicant and the APP Shri. More for the State.

2] The learned advocate for the applicant submitted that during the course of investigation, it reveals from the statement of the victim girl that she is having love affair with the applicant. The applicant and his brothers and father took her from Silver Hall by car and forcibly went to Pachange Vasti and kept her with applicant Amol Chavan in a room where by giving promise to marry applicant has physical relations with her. The learned advocate for the applicant submitted that applicant suo motu appeared before Kondhwa police station. So he was arrested on 19-12-2017. He was remanded to police custody till 26-12-2017. Since then he is in judicial custody. The applicant filed the first bail application (Cri. Bail Appln. No. 631/2018) before Special Judge, Pune, which was rejected on the ground that investigation is in progress and it will not proper to release the applicant at the initial stage of investigation. The learned

advocate for the applicant submitted that now the charge-sheet is filed. Therefore, due to filing of charge-sheet, the circumstances are changed and this second bail application is tenable.

3] The learned Advocate for the applicant submitted that there is love affair between the applicant and the victim girl. The informant, who is the mother of the victim girl and the other relatives of the victim girl are against the love relationship of the victim girl with the applicant because the applicant belongs to different caste. Therefore, the informant and other relatives of the victim girl are going to perform the marriage of victim girl with another person. Hence, the victim girl called the applicant / accused and on her own accompanied with the applicant. The learned advocate for the applicant submitted that the investigation shows that victim girl resided with the applicant / accused four months in rented room of Bhausahab Pachange, which is a chawal, i.e. thickly populated area. During that period, the present applicant / accused was going for job in a company at Rangangaon MIDC. At that time, victim girl was alone in the house. That indicates that the victim girl with her wish and will and consent resided with the applicant / accused. The learned advocate for the applicant submitted that the applicant will not abscond. He will remain present on each date of hearing. Therefore, he submitted to release the applicant on bail. In support of his submission, learned advocate for the applicant has relied on following decision.

Akshay Rama Waghmare Vs. State of Maharashtra, 2017 CLU 898 (Bombay High Court)

In above referred authority, application for bail was filed in a crime registered for the offences punishable under section 376(2)(i)(n) and 363, 366(A) of IPC and under Section 4 & 6 of POSCO. The Hon'ble High Court observed that investigation is completed and the charge-sheet is filed. The victim was 17 years old and applicant was about 20 years old. The record reflecting that the victim had left the house in the company of the applicant. It prima-facie appears that the applicant happens to be in love with the victim and time and again they have eloped since there is opposition from their family members. The victim has attained the age of understanding. The Hon'ble High Court allowed the bail application.

4] The learned advocate for the applicant Shri. Maindad has also relied on following decision.

Mahesh Bhimraj Jadhav Vs. The State of Maharashtra, 2015 ALL MR(Cri) 250.

In above referred authority, the bail application was filed in a crime registered under Section 376 of the Indian Penal Code. The charge-sheet has been filed and the statement of prosecutrix has been recorded. Accused has been in custody since the date of his arrest. Hence, needs to be enlarged on bail.

5] Relying on above referred decisions, the learned advocate for the applicant submitted that in the present case also, the investigation is completed. The charge-sheet is filed and the statement of the victim girl is recorded under Section 164 of The Code of Criminal Procedure. The investigation reveals that there is love relations between the victim girl and the accused and the victim girl voluntarily left the house and resided

with the accused for five months. Considering all these facts, I am inclined to grant this application.

6] The prosecution has resisted the application on the ground that if the applicant is released on bail, he will tamper with the prosecution witnesses and he will abscond. However, the applicant resides at Andur Tal. Tuljapur, Dist. Osmanabad. The victim girl resides at Super Indiranagar, Pune. Therefore, there is less possibility that if the applicant is released on bail, he will pressurize the witnesses. For all these reasons, I am inclined to grant this application. However, in view of objection raised by the APP for the State, some stringent conditions needs to be imposed while releasing the applicant on bail. With this, I proceed to pass the following order.

ORDER

- 1] The application is allowed.
- 2] The applicant Amol Dhanu Chavan be enlarged on bail on furnishing PR. Bond of Rs.40,000/- with one or two sureties in the like amount.
- 3] The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence.
- 4] The applicant shall attend each date of hearing of this case.

Pune,

Dated/-10-04-2018

(R. N. Sardesai)
Special Judge, Pune (Under POCSO Act)

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

Name of Steno : Shri. V. V. Bannur, Stenographer-Grade I,

Name of Court : Shri. R. N. Sardesai, District Judge,3, Pune.

Judgment signed by PO on : 10-04-2018

Judgment uploaded on : 11-04-2018

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

Name of Steno : Shri. V. V. Bannur, PA

Name of Court : Shri. R. N. Sardesai, District Judge, 3, Pune.

Judgment signed by PO :

Judgment uploaded on :

