

ORDER BELOW EXH.4

Applicant/ **accused Salim @ Sagar Iqbal Mushriff** has filed application for grant of bail under the provision of **Section 439** of the Code of Criminal Procedure in connection with Crime No. 657/2021 for the offences punishable under Sections 376(2)(i), 376(2)(n), 376(3) of Indian Penal Code, (here-in-after in short 'I.P.C.') and under Sec. 3, 4, 5(j)(2), 5(1) and 6 of the Protection of Children from Sexual Assault Act (here-in-after in short 'the POCSO Act) registered at Baramati City Police Station, Taluka Baramati, District Pune.

2. Brief facts of the prosecution case are as under:

The informant /victim has filed report against accused alleging that since 15/07/2021 as and when she is going to school or coming from school accused followed her, used to come near her and told that he liked her and asking her name. The said incident took place 2 to 3 times. On one day, accused again followed her while she was returning from school to home and expressed his feelings by saying that he liked her. The informant requested her not to contact her, but still accused keep insisting her by saying that he liked her very much and wants to marry her. Under pretext of marriage, accused took the informant with him for walking many times. On one day, the accused applicant took the victim girl near lake situated near the bridge on Patas Road by his scooter. At that time also, accused expressed his feelings about love and affection with victim girl and requested her to meet at lonely place.

3. It is further alleged that, when the informant was returning to home from school, accused meet him and took her at lonely place near Devkate Hospital in bushes. There, under pretext of marriage, he has had sexual intercourse with her. Thereafter, for three to four times accused committed sexual intercourse with her. Thereafter, she missed her menstrual cycle. So, her mother had suspicion and checked by using pregnancy kit. The result of was positive. Thereafter, her mother took her to hospital. In Sassoon Hospital, Pune, her pregnancy was terminated. On 03/12/2021 he was discharged from hospital. Then she lodged report of incident against accused.

4. On the basis of his report, Crime No. 657/2021 for the offences punishable under Sections 376(2)(i), 376(2)(n), 376(3) (here-in-after in short 'I.P.C.') and under Sec. 3, 4, 5(j)(2), 5(1) and 6 of the POCSO Act came to be registered at Baramati City Police Station, Taluka Baramati, District Pune.

5. The applicant/accused came to be arrested on 29/11/2021. Since 04/12/2021 he is in judicial custody. In the meantime, investigating officer has submitted charge sheet against him. Therefore, he has filed this application for grant of bail.

6. I have heard the learned Adv. for applicant/accused, learned APP and the learned Advocate for the informant. Perused material placed on record.

7. The informant and her mother appeared through Adv and filed affidavit cum reply at Exh. 9 and 10. Both the victim and her mother have come with the case that, out of love affair and physical attraction, the applicant/accused and victim came in

contact with each other and have had sexual intercourse. The victim girl has further contended that in addition to applicant/accused she has had friendship with other boys also.

8. As pointed out learned Advocate for accused, investigating officer has submitted charge sheet against the accused. Applicant/accused is in judicial custody since 04/12/2021. In view of no objection given by the victim and informant, as well as story narrated by the victim girl vide her say at Exh. 10, in my opinion applicant/accused is entitled to get bail.

9. Having regards to the facts and circumstances of the case, I am of the opinion that accused/applicant is entitled for bail. I therefore, pass following order.

ORDER

- (1) Application Exh. 4 is allowed.
- (2) Accused/ applicant Salim @ Sagar Iqbal Mushrif be released on bail, on his executing personal bond of Rs.50,000/- (Fifty Thousand) with one surety of like amount on condition that: -
 - (a) He shall not tamper with the prosecution evidence in any manner and shall co-operate with police machinery, as and when required.
 - (b) He shall not step in the vicinity, where the informant and the prosecution witnesses reside till further order.
 - (c) He shall produce on record proof of his permanent residence at the time of furnishing bail.
 - (d) He shall remain present in court on every date without fail.

(3) Issue Intimation Letter to Jailor accordingly.

Date : 25/10/2024

(S. R. Patil)
Additional Session Judge,
Baramati.

“Certificate”

I affirm that the contents of this PDF file are same word for word as per original.

Name of Steno : V.N. Bankapure, (Steno-I)

Court name : Mrs. Surekha Patil.
Addl. Sessions Judge,
Baramati.

Judgment delivered on : 25/10/2024

Judgment signed by PO on : 25/10/2024

Judgment uploaded on : 25/10/2024

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