

ORDER BELOW EXH. 03 in Spl.Ch. Case No. 66/2020

Accused has filed this second application for regular bail under sec.439 of Cr.P.C.

2] Ld. advocate for the accused argued as per contentions in application. According to him, there was love affair between the victim girl and the accused. She herself had run away with the accused. She is aged about 15 years old. She has understanding capacity to know the consequences of sexual intercourse. No forcible sexual intercourse is made with her. Now the charge-sheet is filed after investigation. His further detention is not necessary. He has no criminal antecedent. Thus, it is prayed for bail.

3] In support of his submissions, he relied upon the following cases:

i] In case of Aniruddha Yadav Vs. State of Maharashtra in Cri. B.A. No. 2632/2019 decided by the Hon'ble High Court of Bombay on 09/01/2020, the victim girl was 14 years old and applicant was 25 years old. It was observed that the accused had not induced or forced the victim to leave parent's house. She had sufficient knowledge and capacity to know full import of what she was doing and had only thereafter voluntarily joined the complainant. There was no promise of marriage to her. In peculiar facts of that case the bail was granted.

ii] In case of Sunil Hegade Vs. State of Maharashtra in Cri. B.A. No. 2362/2019 decided by the Hon'ble High Court of Bombay on 05/09/2019, the victim girl was 14 years old. She had love

relations since last 06 months and there was sexual intercourse between them. The applicant was in custody since 14/10/2018. In these peculiar facts and circumstances bail was granted.

iii] In case of Akash Thorat Vs. State of Maharashtra in Cri. B.A. No. 127/2020 decided by the Hon'ble High Court of Bombay on 03/02/2020, the victim girl was aged about 13 years old and the accused was 20 years old. The victim had voluntarily gone to the house of accused and had chosen to remain with him between 07:00 am to 11:30 am where twice she was subjected to alleged penetrative sexual assault. In spite of filing charge-sheet trial was not commenced within 06 months. Hence, bail was granted.

4] Per contra Ld. APP Smt. Naik for the State re-iterated contents of the FIR and objected the bail application over nature of offence. According to her, this accused raped victim minor girl who is below 15 years old. The consent of victim girl is immaterial for sexual intercourse. There is prima facie case against the accused.

5] Grant or refusal of bail is discretionary relief. There is no straight jacket formula to grant or refuse the bail. Each case has to be decided on its own merits.

6] While deciding second application for bail, this Court has to see the substantial change in circumstances since rejection of first bail application. While deciding first bail application No.256/2020, it is observed that there is prima facie involvement of the applicant in alleged offence of rape upon minor girl who is below 15 years old. The offence under section 376(3) of the I.P.C. is prima facie made out in this case. The maximum punishment of life imprisonment is

provided for it. The offence is serious in nature. After considering the nature of allegations against the accused, the accused has no case for bail. Therefore, above rulings are of no help to him. Hence, the following order is passed.

ORDER :

- 1] Application below Exh.03 is rejected.

Date – 09/06/2020

(Rajendra V. Lokhande)
Addl. Sessions Judge, Baramati.

CERTIFICATE

I affirm that the contents of the PDF file order are same word to word as per the original order.

Name of steno : Jagadish N. Kanaki, Steno (Grade -II)

Court : District Judge -4 &
Addl. Sessions Judge, Baramati,

Date : 09.06.2020

Order signed by
Presiding Officer on : 09.06.2020

Order uploaded on : 09.06.2020