

ORDER BELOW EXH.19
(Dated 08.08.2024)

This application is filed under Section 439 of Cr.P. C. by accused No.1 Laxman Baban Netke for grant of regular bail in connection with crime No. 360/2023 registered with Daund Taluka Police Station for the offences p/u/s 376(2)(n), 376(2)(f) r/w 34 of IPC and u/s 4,5(j)(2), 5(L)(N), 6, 8 and 12 of POCSO Act.

2- It is case of prosecution that, FIR dated 02.05.2023 disclosed that the victim is a minor girl aged about 17 years and 4 months. Accused No.1 is a father and accused No.3 is step mother of victim. Victim written statement residing with accused at Girim. Accused No.1 committed rape of victim for several times. Accused No.1 committed rape of victim lastly on 20.03.2023. Victim was having stomach ache, therefore, she told about it to the accused No. 2 and also the fact that accused No.1 committed rape of her for several times But said accused No. 2 threatened victim not to disclose said facts to any one else she would kill her. Therefore, victim did not disclose said incident to anyone . On 10.04.2023 victim was brought by her grandmother and maternal uncle, there they brought her in a hospital where it was diagnosed that, victim is a pregnant. Victim lodged the FIR dated 03.05.2023, based on which crime No. 360/2023, came to be registered with Daund Taluka Police Station, for the offences p/us 376(2)(n), 376(2)(f), 34 of IPC and u/s 4(j)(2) 5(L)(N), 6, 8, 12 of the POCSO Act against accused.

3- Heard Ld. Advocate for applicant and Ld. APP for the State and victim in person. Perused the police papers and other documents.

4- Ld. Advocate for applicant submitted that applicant has not committed any offence whatsoever punishable with imprisonment for life or death. The prima facie no case is made out against accused under section 376(2)(n) (f), of Indian Penal Code and under sections 4, 5(J)(2), 5(L)(N), 6, 8, 12 of POCSO Act. The investigation is completed and charge sheet is filed. FIR lodged by the first informant is after thought and present applicant /accused has no connection with the alleged crime. There is no recovery at the hands of the applicant. Accused No.2 is already released on bail. Applicant is ready and will to abide by all the conditions if imposed. If the applicant is released on bail he will not misuse the liberty given to him and he will not hamper or tamper evidence of prosecution and witnesses. He is also ready to co-operate with the investigation authority. As accused No. 2 is already released on bail ground of parity be applied. Hence he be released on bail.

5- On the contrary, Ld. APP submitted that the alleged offence is serious in nature, the victim is minor, the applicant accused is father of victim, if he will be released on bail, possibility of pressurising victim, informant and witnesses at his hands cannot be ruled out. If he will be released on bail, possibility of his contact with the victim and commission of same

offence at his hands also cannot be ruled out. The alleged offence is sensitive. If the applicant will be released on bail, possibility of his absconding cannot be ruled out and then his presence for the trial cannot be secured. Hence application be rejected.

6- In response to the notice the victim has appeared before the Court and prayed for rejection of the application submitting that the father has forcibly intercourse with her. If he will be released on bail, there is threat to her life at his hands. Hence his application be rejected.

7- Perused record. The FIR discloses that the victim is minor daughter of the present applicant. He was custodian of the applicant being natural guardian i.e. father. The applicant father has committed rape on his minor daughter victim. Considering the relationship between victim and present applicant it is found that applicant has committed heinous offence. He is permanent resident of Garmal (Mandavgan Pharata), Taluka Shirur, District Pune. It means he is not residing within the jurisdiction of this Court. If he will be released on bail, there is highest possibility of his absconding and his presence for the trial cannot be secured. Moreover, the victim is his minor daughter therefore possibility of pressurising the victim and commission of same offence at his hands also cannot be ruled out. Therefore, the apprehension of the victim about danger to her life from the applicant is seems to be substantial. The role of present applicant and accused No.2

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are not the same in the alleged offence. Considering above all circumstances, it appears that the applicant is not entitled for bail only on the grounds of parity and completion of investigation. Hence I pass the following order.

ORDER

1] Application Exh.19 is rejected.

Date : 08.08.2024

(S.S. Saste)
I/c Additional Sessions Judge,
Baramati.

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CERTIFICATE

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

Name of Steno. :- S.V. Hirve(Steno -Grade-1)

Court Name :- S.S. Saste.
Addl. Sessions Judge, Baramati

Date of order. :- 08.08.2024

Order signed by P.O. on :- 08.08.2024

Order uploaded on :- 08.08.2024