

**ORDER BELOW EXH. 2**  
**(Dated 31.08.2024)**

This application is filed under Section 439 of Cr.P. C. by accused/applicant Shivaji Dilip Kamble. The C.R. No. 157/2024 is registered against them with Malegaon Police station for the offences punishable under Sec. 363, 366, 376(2) (n), 506 of Indian Penal Code and under Section 4, 5 (L), 6 of POCSO Act.

2] Perused application, say filed by I.O. and documents produced by both the parties. Heard Advocate for accused and APP Shri.Shingade.

3] The case of the prosecution is that, the victim/informant is residing with her sister at the house of maternal uncle as her parents are no more. Since 2023 she is taking education at Malegaon in 12<sup>th</sup> standard. When she was in 9<sup>th</sup> standard, person viz. Shivaji Dilip Kamble was working as a painter in front of her house. He used to observe her. Thereafter, their identification turn into friendship. When they meet each other, he had snapped their joint photographs. On 04.06.2024 she had came at Baramati for taking admission in 12<sup>th</sup> class. She had met with her friend Rajshree therefore her maternal uncle left for his village. Thereafter she along with her friend Rajshree had went at college. When she was entering in the school the person Shivaji Kamble by giving call had stopped her. Thereafter he asked her to visit his sister Puja Dhumal r/o Someshwar, Taluka Baramti. When she has denied on the count

of admission work, he has threatened that he will viral their joint photographs and also sent it to his maternal uncle. Thereafter he forcibly caught hold her hand and carried her by his motor-cycle to the residence of her sister at Someshwar. They had taken meal there. Thereafter they had went at Kaspathar, Satara by motor-cycle. They had taken refreshment at Radhika Lodge. After visiting Char Bhint Point they had taken halt at Radhika Lodge. In that night Shivaji Kamble had two times forcible sexual intercourse with her. On the next day i.e. on 05.06.2024 they had returned to the house of his sister and taken meal there. Thereafter they had went at Morgaon to visit temple. At about 4.30 p.m. they had returned to Someshwar at the house of his sister. On that night they had taken halt there. On the next day i.e. on 06.06.2024 at about 11.00 a.m. Shivaji Kamble has dropped her by his motor-cycle at Shardanagr college, Malegaon. At that time Rector Komal Bhosale had seen them and asked her about him. She had stated that he is her friend. The Rector had informed by phone call to her sister that the victim informant was not present in the college since 04.06.2024 and on 06.06.2024 she has returned with one boy. Her sister had informed about the same to her maternal uncle by phone call. On arrival of her maternal uncle and sister, she has narrated about above all incidence. Thereafter she has lodged report with Malegaon Police Station. On the basis of her report, CR No.157/2024 came to be registered.

4] The Ld. APP argued that the alleged offence is against minor victim therefore serious in nature. The applicant had forcibly sexual intercourse with the victim against her wish. The applicant is residing away from his family for education. If the application is allowed, possibility of disturbance at his hands in the education of the victim cannot be ruled out. If he will be released on bail, commission of similar offence, pressurising the victim and witnesses at his hands cannot be ruled out. His presence for the trial cannot be secured. Hence application be rejected.

5] In response to the notice, maternal uncle of the victim reported that victim is residing at Hostel in Pune. Hence she is unable to attend the Court. The extract or station diary is produced by police authority.

6] Advocate for applicant has relied upon photographs and the following orders of Hon'ble Bombay High Court in

- (i) Bail application No. 1036/2015 of Sunil Mahadev Patil V/s The State of Maharashtra.
- (ii) Ganesh Shantaram Pawar V/s State Of Maharashtra reported in DLD (Cri.)-2022-1803.
- (iii) Imran Iqbal Shaikh V/s State of Maharashtra reported in DLD (Cri.)-2023-2423.
- (iv) Vishal Prakash Kharade V/s State of Maharashtra reported in DLD (Cri.)-2022-1816.
- (v) Nitin Damodar Dhaberao V/s State of Maharashtra reported in DLD (Cri.)-2024-3214.

7] In the present matter the offender is capable of repeating the act. Therefore, the observations in the above cited orders are not applicable in the present matter.

8] Perused record. The alleged offence is serious in nature. The victim is minor. She is taking education and residing away from her family. The applicant accused is resident of Waghdare, Taluka Shrigonda, District Ahmednagar. Therefore, possibility of his absconding cannot be ruled out. In these circumstances his presence for trial cannot be secured. Moreover, if he will be released on bail possibility of commission of the similar offence in respect of the victim cannot be ruled out. Therefore, it would not be just and proper to release him on bail. Resultantly, I pass the following order.

**ORDER**

Application Exh. 2 is rejected.

Date : 31.08.2024

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

**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. :- 31.08.2024  
Order signed by P.O. on :- 31.08.2024  
Order uploaded on :- 31.08.2024