

MHPU140036432023.



SPECIAL CASE No. 370/2023.

State of Maharashtra

Vs.

Tushar Tukaram Wayse

ORDER BELOW EXH. 2

This regular bail application has been filed by the applicant-accused under Section 439 of the Code of Criminal Procedure in connection with Crime No. 695/2023 registered for the offence punishable under Sections 452, 354 and 323 of the Indian Penal Code and under section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 at Daund Police Station.

2] The prosecution case in nutshell is as under :-

On 05.08.2023 informant victim minor girl lodged report that since last one year she had love affair with one Tushar Vayase. Since last 3 to 4 months she had told him not to talk with her. On 05.08.2023 at about 10.00 am she was ill and was sleeping in the house. Her mother had gone for work by pushing the door. At about 10.25 a.m. Tushar entered in the house, removed the bedding and caught her right hand and told her that they will marry. Suddenly, her brother entered in the house for lunch. Hence, Tushar ran out of the house. Hence, the report.

3] The applicant-accused contended he is innocent. He did not commit any offence. He has falsely been implicated in the present crime. The investigation is

completed and charge-sheet has been filed. Offence under any section is not made out. There are vague and general allegations. Nothing has been recovered at his instance. He had love affair with victim but her family had opposed it. There are no criminal antecedents. He is ready to abide by the conditions imposed upon him. Hence, prayed to allow the application.

4] The Investigating Officer and Ld. APP opposed the application by filing say at Exh. 3. It is contended that the offence is serious one committed against a victim minor girl. Prior to this offence accused had committed another offence of similar nature. Accused was absconding since the day of offence. If released on bail, the applicant-accused may commit similar type of offences, tamper prosecution evidence or may flee away. Hence, prayed for rejection of application.

5] Heard learned Advocate Mr. P. B. Khartude for the applicant-accused, learned A.P.P. Mr. P. G. Joshi for the State and informant and her mother in person. I have perused the documents on record. At the outset it is important to consider here that previous to present offence, one offence was registered against present accused in the year 2021. In the present offence the Investigating Officer has conducted the necessary panchnamas and recorded the statements of witnesses. He has also collected the documents regarding birth date of victim. Thus, the investigation is completed and the charge-sheet has been filed vide Special Case No. 370/2023.

6] Ld. Advocate for the applicant-accused has produced the prints outs of WhatsApp chats between the victim and the accused, one chat and photographs. He has submitted that all these documents shows that there is love relationship between the present applicant-accused and victim.

7] On the contrary, victim herself has submitted that there is threat to her life and she is still studying and the applicant-accused may disturb her education.

8] Considering all these aspects it is clear that the offence is not punishable with death or life imprisonment. Further, the victim is aged about 17 years and the applicant-accused is 21 years old. Investigation has been completed. Further, say filed by the Investigating Officer is silent as to for what purpose the custodial detention of the applicant-accused is required. Under such circumstances, considering the apprehension of the victim, imposition of stringent conditions may suffice the purpose. Hence, the order.

ORDER

1. The application is allowed.
2. Applicant-accused Tushar Tukaram Wayse be released on bail on his executing P. R. Bond of Rs. 25,000/- with a surety in like amount only in this Crime No. 695/2023 registered for the offence punishable under Sections 452, 354 and 323 of the Indian Penal Code and under section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 at Daund Police Station, on the following conditions:-

- A) He shall not tamper with prosecution evidence in any manner.
- B) He shall not leave India without prior permission of the Court.
- C) He or his relatives shall not contact with the victim or any person related to her or any other prosecution witnesses by any means till conclusion of trial.
- D) He shall not enter in the vicinity of Daund Taluka till completion of recording of evidence.
- E) He shall inform his new address to this Court as well as to the Investigating Officer.
- F) He shall submit valid identity and address proofs of his three blood relatives to Investigating Officer as well as to this Court.
- G) He shall attend each and every date of trial.

3. If he disobeyed any of the above conditions, the prosecution is at liberty to move the Court for cancellation of bail.

Date :- 09.11.2023.

Sd/-
(J. P. Darekar)
Special Judge,
Baramati, Dist. Pune.

CERTIFICATE

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

Name of Stenographer : I. E. Deshmukh
Stenographer (G-1)

Court Name : J.P. Darekar
Additional Sessions Judge,
Baramati, Dist. Pune.

Dictated on : 09.11.2023.
checked on : 09.11.2023.
Signed on : 09.11.2023.
Order uploaded on : 09.11.2023.