

MHRG010014672024



Order below Exh.02 in Special Case No.55/2024

(State Vs. Ramesh)

This application for regular bail has been filed by the accused, **Ramesh Ambaji Patil** in connection with C.R.No.149/2024 registered by Wadkhal Police Station for offence punishable under Sec. 64(2)(i)(m), 65(1), 74, 75(1)(1)(4), 79, 352(2),249 253 of the BNS and Sec.4, 6, 8, 12 of Protection of Children From Sexual Offences Act, 2012, which relates to punishment for penetrative sexual assault. The applicant is alleged to have committed sexual assault on a minor girl, aged [14] years.

Facts of the Case :-

2. The accused has been charged under Section 64(2)(i)(m), 65(1), 74, 75(1)(1)(4), 79, 352(2),249 253 of the BNS and Section 4, 6 of the POCSO Act for allegedly committing penetrative sexual assault on a minor child. The victim, a girl aged [14], has filed a complaint against the accused.

3. The accused was arrested on 13-10-2024 and has been in judicial custody since. The investigation is done and charge sheet came to be filed. The victim's statement has been recorded, and medical evidence is also annexed with the charge-sheet.

4. The applicant has applied for regular bail, contending that he is innocent and that he should not be kept in custody pending trial. The applicant has also emphasized that he is a first-time offender and has no previous criminal record.

Arguments for the Accused :-

5. The counsel for the applicant has made the following submissions in support of the bail application:

1. The accused is not likely to abscond, as he has strong family ties and a permanent place of residence.
2. There is no risk of the accused influencing or intimidating witnesses, as he does not have any connections with the victim's family or any other witnesses.
3. The accused has been in custody for a considerable period, and further detention is unnecessary.

Arguments for the Prosecution :-

6. The prosecution has opposed the bail application on the following grounds:

1. The accused has been charged with a serious offense under the POCSO Act, which involves sexual assault on a minor. This is a heinous crime, and the gravity of the offense demands that the accused remain in custody until the trial is concluded.
2. The victim's statement, which has been recorded under Section 164 CrPC, provides a detailed account of the offense,

which appears to be consistent with the medical evidence available at this stage.

3. There is a risk that the accused, if granted bail, may influence the victim, her family, or any potential witnesses, considering the sensitive nature of the case.

4. The provisions of Section 29 of the POCSO Act prohibit the grant of bail to an accused person charged with an offense under the Act, unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty or that the accused is not likely to commit similar offenses in the future.

Analysis and Findings :-

7. The Court has carefully considered the nature of the offense, the allegations against the accused, the evidence on record, and the relevant legal provisions.

1. **Nature of the Offense :-** The offense alleged is of a grave nature, involving the sexual assault of a minor child, which falls under the category of offenses that are taken very seriously by the law. The POCSO Act is a special law aimed at protecting children from sexual exploitation and abuse, and it mandates stringent punishment for those found guilty of such crimes. In light of this, the Court must be cautious in granting bail to an accused facing such serious charges.

2. **Evidence :-** The victim's statement, which has been

recorded in the presence of a magistrate under Section 164 of the CrPC, details the allegations against the accused and has been corroborated by preliminary medical evidence. At this stage, the Court is of the opinion that there is a strong prima facie case against the accused, making it inappropriate to grant bail.

3. **Risk of Tampering with Evidence :-** The victim in this case is a minor, and there is a significant risk that the accused may attempt to influence or intimidate the victim or her family, given the sensitive nature of the crime. The possibility of tampering with evidence or attempting to obstruct the investigation or trial cannot be ruled out, especially as the victim is a key witness.

4. **Provisions of the POCSO Act :-** Section 29 of the POCSO Act empowers court to presume that there are reasonable grounds for believing that the accused is not guilty of the offense. In this case, the Court finds that the gravity of the offense and the potential risks involved in granting bail outweigh the arguments made by the defense.

5. **Likelihood of Flight or Absconding :-** While the accused has expressed that he has strong familial ties, the seriousness of the offense and the potential consequences of the trial suggest that there is a risk of the accused absconding, particularly if released on bail.

Conclusion :-

8. Having considered all the submissions and

the relevant legal provisions, the Court is of the view that the applicant has failed to establish sufficient grounds for granting bail in this case. Given the seriousness of the offense, the evidence on record, and the potential risks associated with releasing the accused, hence following order.

ORDER

1. The application is rejected.
2. The accused shall remain in judicial custody.
3. This order be intimated to the Jail authority forthwith.

Alibag,

Date:- 06/12/2024.

(S.D.Bhagat)

Additional Sessions Judge,
Raigad-Alibag.

CERTIFICATE

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

Name of Steno	-	Sau.Manisha Sudhir Kadave Stenographer Grade-I
Name of Court	-	Shri. S.D.Bhagat, Additional Sessions Judge, Raigad-Alibag
Date of Order	-	06/12/2024.
Order signed by PO on	-	06/12/2024.
Order uploaded on	-	/12/2024.

(Sau.Manisha Sudhir Kadave)

Stenographer Grade-I