



1) The present application is filed by applicant under section 439 of Cr.P.C. for regular bail in respect of C.R.No.129/2021, registered with Roha police station, for the offence punishable under sections 376, 376(2)(i), 376(2)(j), 376(3), 363 of Indian Penal Code and section 4, 6, 8, 9(l), 9(m), 10 of the Protection of Children From Sexual Offences Act, 2012.

2) The applicant contended that he is permanently residing at the address mentioned in the cause title of the application. He has deep roots in the society. He does not have any criminal antecedents.

3) He further contended that the informant has lodged report alleging therein that on 04.11.2022 at about 6.00 p.m. his granddaughter was making fort from soil. His granddaughter was not seen for long time. Therefore, they took search of his granddaughter. At about 7.00 p.m. the applicant/accused brought his granddaughter to his resident. At the relevant time, his granddaughter was crying. The applicant told them that their granddaughter had fallen besides Nala, therefore, he has brought her. At that time his granddaughter/victim was frightened and she was crying. At about 11.00 p.m. his wife while changing the clothes of victim, observed that blood was flowing through her

private part. Her knicker was stained with blood. Thereafter, his wife showed him the knicker and told that blood is oozing from the private part of victim. At that time, they thought that the blood might be oozing as she had fallen down. On the second day, while changing the clothes of victim, his wife again saw that the blood is oozing from her private part. Then they thought that something is wrong with the victim. They went to their landlord Mr. Santosh Parte and Chandrakant Parte and told them the incident. The landlord told them to go to police station and then to hospital. On 07.11.2021 at about 11.00 a.m. their landlord Chandrakant Parte told him that about 10.00 a.m. he had called the applicant and asked about the incident. At that time the applicant/accused was scared and he ran away. Thereafter, he has lodged report.

4) He further contended that he has been arrested on 08.11.2021 and since then he is behind bars. The Investigating Officer has completed the investigation and has filed charge-sheet against him. On perusal of charge-sheet, it appears that there are more than 20 witnesses. Therefore, the trial will take sufficient time. He is the only earning member of the family. His mother and wife is dependent upon him. The C.A. Report shows that no semen were found on the clothes of victim. He prayed that he may be released on regular bail.

5) Ld. A.P.P. filed his say at Exh.22. He contended that the offence is serious in nature. The applicant has committed

rape on 5 years old victim. The Medical Report of victim shows that her hymen was ruptured. The material in the charge-sheet shows that the applicant himself had brought the victim to her house. The victim is 5 years old. The victim and informant hails from another state and if the applicant is released on regular bail, there are chances that he may pressurize the witnesses and tamper the evidence of prosecution. He prayed that the application be rejected.

6) Heard Ld. advocates appearing for parties.

7) On perusal of material available on record, it appears that the report is lodged against the applicant for committing penetrating sexual assault on the victim. The age of the victim, at the time of incident was 5 years old. The Medical Report of the victim, which is on record, shows that the hymen of victim was ruptured. The C.A. Report shows that blood stains were found on the knicker of victim. Though the semen are not found on any of the clothes of victim, but the medical report of the victim shows that her hymen was ruptured and blood had oozed from her private part. The blood stains were found on her knicker. The material further shows that the trial of the case has commenced. The informant has been examined. The Ld. Advocate appearing for accused has duly cross-examined the informant and has supported this Court in proceeding with the trial. The victim is yet to be examined. The age of the victim is 5 years. The victim and informant are persons of other State. The applicant is the

local person. The trial has commenced and is likely to be concluded within the period of further 6 months. Therefore, taking into consideration the chances of pressurizing the victim and the fact that the trial has commenced, in my opinion, the applicant is not entitled to be released on regular bail. Hence, I proceed to pass following order :-

: ORDER :

- 1) The application is rejected.
- 2) The trial has commenced, therefore, the prosecution is directed to secure the presence of witnesses on each day of hearing.

(Dictated and pronounced in open Court)

Mangaon.
Date : 12.02.2024.

Sd/-
(H. K. Bhalerao)
Additional Sessions Judge,
Mangaon-Raigad