



Session Case No.64/2022
The State of Maharashtra
Vs.
Sadanand Kadam
CNR No.MHRG150006042022

:: ORDER BELOW EXH. 4 ::
(Passed on 29th November, 2022)

1. The present application is third and first bail application filed by applicant/accused after filing charge-sheet under Section 439 of Criminal Procedure Code for releasing him on regular bail.

2. The applicant contended that he has been arrested in the present offence, from the date of arrest he is behind bar. He further contended that, on 22/06/2022 the informant had lodged report alleging therein that, he had seen applicant lying on her mentally retarded girl. The informant had lodged false report against him. He had not committed any offence. The investigation of the offence is completed. Therefore nothing is to be recovered or discovered at his instance. The present application is filed after filing of charge-sheet. The said fact is change in circumstances to entertain his bail application and prayed that he may be released on regular bail.

3. The learned A.P.P. filed his say at Exh.5. He

contended that the offence is serious in nature. The applicant had committed rape on mentally retarded victim. The victim is 80% mentally retarded. The informant is the eye witness to the incident and if the applicant is released on regular bail, there are chances that he may pressurize the informant and tamper the evidence of prosecution. He prayed that the application be rejected.

4. Heard learned advocates appearing for parties.

5. On perusal of material available on record it appears that allegation made in the report against the applicant is that, he had committed rape on mentally retarded victim. The informant is the eye witness, who had seen applicant committing rape on victim. The medical report of victim is positive and supports the contents of report. The offence committed by applicant is serious in nature. He had committed rape on victim who is having 80% permanent disability in relation to her brain.

6. The learned advocate appearing for the applicant had relied upon the judgment passed by the Hon'ble Kerala High Court in *Amal Sivan Vs. State of Kerala, reported in LAWS(KER) 2019 10 299.* In the authority relied by the learned advocate appearing for applicant the victim had filed two cases against the accused. In the course of investigation

of the first case it had reveal that the allegation made against accused were false. Therefore it was observed that the credibility of victim is doubtful.

7. In the present case the victim is 80% mentally retarded. The certificate to said effect is annexed with the charge-sheet. The informant is the eye witness to the incident. The applicant had committed rape on mentally retarded victim. The offence committed by applicant is serious in nature. The applicant and informant resides in same village. Therefore, if the applicant is released on regular bail, there are chances that he may pressurize the witnesses and tamper the evidence of prosecution. Therefore taking into consideration all the above facts in my opinion the authority relied by the learned advocate appearing for applicant is not helpful to the applicant as the facts and circumstances of the authority are completely different from the facts of present case and the applicant is not entitled to be released on regular bail. Hence I proceed to pass following order.

ORDER

1. The application is rejected.

Mangaon.
Dt.: 29/11/2022

(H. K. Bhalerao)
Additional Sessions Judge, Mangaon,
District Raigad.