



Spl.Case No.38/2022
The State of Maharashtra
Vs.
Karan Raghunath Ghag
CNRNo.MHRG150007182022

:: ORDER BELOW EXH. 3 ::
(Passed on 31st March, 2023)

1. The present application is filed by applicant under Section 439 of Criminal Procedure Code for regular bail in respect of Crime No.108/2022 registered with Mahad MIDC Police Station for the offence punishable under Section 376, 363 of Indian Penal Code, Section 4, 8 and 12 of The Protection of Children From Sexual Offence Act, 2012 and section 3(1)(w)(i)(ii) and 3(2)(v) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The applicant contended that he is permanent resident of Village-Isane Kambale, Tal-Mahad, Dist-Raigad. He does not have any criminal antecedent. He is arrested on 22/09/2022 and since then he is behind the bar.

3. He further contended that the informant had lodged missing report of victim. Thereafter the victim was traced by police. They recorded statement of victim. The victim made allegations of sexual assault against him. The statement of victim shows that she on her own had come to

the house of applicant. The applicant had not committed any forceful act against the will of victim. He further contended that the investigation officer had filed charge-sheet against him. Therefore nothing is to be recovered or discovered at his instance. He is 20 years old. He prayed that he may be released on regular bail.

4. The learned A.P.P. filed his say at Exh.7. He contended that the offence is serious in nature. The applicant was aware that the victim belongs to schedule caste and is minor. He had abducted victim, thereafter he had kept sexual relations with her. The victim and applicant resides in the same vicinity and if the applicant is released on regular bail, there are chances that he may pressurize the victim and tamper the evidence of prosecution. He prayed that the application be rejected.

5. Notice was issued to informant. The informant filed his say at Exh.6. He contended that the applicant is hot tamper and if he is released on regular bail, he may pressurize him and victim to withdraw the case. He prayed that the application be rejected.

6. Heard learned advocates appearing for parties.

7. On perusal of material available on record it

appears that the informant had firstly lodged missing report of victim. The statement of victim shows that she on her own had gone to the house of applicant. The victim in her statement had not made complaint about any forceful sexual act against her will. The age of victim is about 14 years 7 months. The age of applicant is 20 years old.

8. **The Hon'ble Bombay High Court in Sunil Mahadev Patil Vs. The State of Maharashtra reported in 2016 ALL MR(Cri.) 1712 has held**

“The overall considerations while deciding such applications can be summed up as -

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

- (i) What is the age of the prosecutrix, who is minor.*
- (ii) Whether the act is violent or not.*
- (iii) Whether there are antecedents or not.*
- (iv) Whether the offender is capable of repeating the Act or not.*
- (v) Whether there is likelihood of threats or intimidation, if at all the boy is released.*
- (vi) Whether any chance of tampering with the material witnesses when their statements are recorded.*
- (vii) It is also to be taken into account in such cases*

that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future.

9. In the present case the age of applicant is 20 years. The age of victim is approximately near 15 years. The statement of victim shows that she on her own had visited the house of applicant. The victim had not made any complaint about any forceful sexual act against her will. The applicant is not having any criminal antecedents. Therefore, in view of the law laid down by Hon'ble Bombay High Court in Sunil Patil referred supra, the applicant can be released on regular bail by putting appropriate conditions for his appearance at trial. Hence, I proceed to pass following order.

ORDER

1. The application is allowed.
2. The applicant/accused **Karan Raghunath Ghag**, be released on regular bail in **Crime No.108/2022** registered at Mahad MIDC Police Station, for the offence punishable under Section 376, 363 of Indian Penal Code, Section 4, 8 and 12 of The Protection of Children From Sexual Offence Act, 2012, section 3(1)(w)(i)(ii) and 3(2)(v) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989., on his executing PB of Rs.55,000/- (Rupees Fifty Five Thousand Only) with one solvent surety in like amount.

3. The applicant shall not tamper with the evidence of prosecution or pressurize the witnesses.
4. The applicant shall attend each and every date of hearing.
5. The applicant shall not enter in the jurisdiction of Mahad MIDC Police Station till conclusion of trial.
6. The applicant shall furnish his residential proof in Court.
8. Inform concern Police Station.
9. Violation of any condition will entail for cancellation of bail.

Mangaon.
Dt.: 31/03/2023

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