

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,**  
**PANVEL-RAIGAD**

**Special Case No.09/2021**  
**CRI. BAIL APPLN. No.756/2020**  
**(CNR No. MHRG170022362020)**  
**Order Below Exh.1**

**Kalpesh Sanjay Nikam -Vs- State of Maharashtra**

**(Passed on 09/08/2021)**

- 1] Applicant/accused-Kalpesh Sanjay Nikam has filed application for regular bail u/sec. 439 of Cr.P.C., of the offence punishable u/sec.376 of I.P.C and sec.4, 8, 12 of POCSO Act, in crime No.260/2020, police station Khandeshwar.
- 2] Perused application, say and record.
- 3] Ld. Advocate for applicant/accused submitted that, false allegations levelled against this applicant/accused. He has no concern with this crime. The age of victim is contradictory because in two separate documents her age denotes different. Not only this, there is 7 days delay to lodge FIR without reasonable ground. Medical report also does not supported prosecution story. Already charge-sheet submitted before court and now nothing remains to seize from this applicant/accused He is the distant relative of victim and he did not commit any

offence as alleged. In the Covid situation, it is not just and proper to keep him behind bar for uncertain period. On 30/11/2020, he was arrested. No purpose will suffice by keeping him behind bar. Hence, prayed for his regular bail.

4] Ld.A.P.P. Smt.Wade strongly objected regular bail of the applicant/accused and submitted that, applicant/accused is relative of victim, therefore there is possibility of repetition of offence. Victim is minor and her medical report speaks about the sexual assault. No doubt, charge-sheet submitted before court, but he does not show change in his own circumstances. There is possibility to tamper with the victim and prosecution witnesses. Lastly, prayed for rejection of his bail.

5] I have gone through record. Alongwith record, medical report of victim annexed. As per this medical report, her hymen appears to tear and old. It is supported to the statement of victim that, accused committed penetrative sexual intercourse with her without her consent and will. Medical officer also opine that, evidence of old penetrative vaginal sexual intercourse seen. It is pertinent to note here that, the incident occurred on 22/11/2020 and victim medically examined on 30/11/2020, therefore medical officer mentioned old tear and old penetrative vaginal sexual intercourse. The statement of victim u/s.164 of Cr.P.C also reveals that, accused

committed forcible sexual intercourse with her against her will by taking undue advantage of her loneliness in the house. Despite knowing that, she is cousin sister in relation, he did not respect said relation and committed this sexual offence.

6] Needless to say that, charge-sheet produced before court on 16/01/2021, but it does not mean that, his trial will not commence years together. It is not also the ground that, he is behind bar since 30/11/2020. Needless to say that, being the distant relative, in future, he must across with victim and there is possibility to repeat the same kind of offence. Also he does not show any change in circumstances after submitting of charge-sheet, hence at this stage, I do not find it is proper stage to release this applicant/accused in heinous offence. Hence, I proceed to pass following order.

**ORDER**

Regular bail Application (Exh.1) is hereby rejected.

Panvel,  
Date : 09/08/2021

(Madhuri A.Anand)  
Additional Sessions Judge,  
Panvel-Raigad.

Dictation started on 2.10 p.m  
Dictation concluded on 2.25 p.m

- 4 - Special (POCSO) case No.09/2021  
Cri.Bail Appln. No.756/20  
(Order below Exh.1)

**Note :-** Argument of both parties heard on 29/07/2021 and kept for case diary on 09/08/2021. Case diary produced on 09/08/2021, hence order passed on same day.