

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
PANVEL-RAIGAD

Special POCSO Case No.67/2021
Khopoli C.R.No.78/2021
Order Below Exh.4

The State of Maharashtra V/s Lingappa Mallaya Poojari

(Passed on 04/08/2021)

1] Applicant/accused - Lingappa Mallaya Poojari has filed application for regular bail u/sec. 439 of Cr.P.C., of the offence punishable u/sec.363, 354-B, 376(2)(j)(l), 376(3) of I.P.C and sec.4, 6, 8 and 12 of POCSO Act and sec.3(1)(w)(i) (ii) and e(2)(v)(va) of Atrocities Act in crime No.78/2021, police station Khopoli.

2] Perused application, say and record.

3] Ld. Advocate for applicant/accused submitted that, false allegations levelled against this accused by the informant. He has no concern with this offence. He did not commit rape on minor victim girl. Charge-sheet produced before court. Now, nothing remains to seize or interrogate from him. On 23/03/2021 he was arrested and no purpose will suffice by keeping him behind bar for uncertain period. There is two days delay to lodge FIR which shows the concoction and false story. Medical report also does not

supported to the prosecution. Hence, lastly prayed for his regular bail.

4] Concerned SDPO appeared before court and objected on the ground that, victim is mentally retarded and accused taken undue advantage of her mental condition. Medical certificate of her mentally retardation is on record. Medical certificate of sexual assault supported that, she has been sexually assaulted by the accused. There are eye witnesses whose statement already recorded and annexed alongwith record. Therefore, it is not fit case to allow bail application of accused being a heinous offence.

5] Ld.A.P.P. Smt.Wade adopted the submission of concerned S.D.P.O.

6] I have gone through medical certificate relating to sexual violence. In the said report, it is clearly reveals that, hymen of victim is ruptured. As per the statement of victim, she was taken in the bushes by the accused and committed rape on her. For the said statement of victim, medical certificate supported. As per age certificate, she is aged about 13 years and 10 months and accused is aged about 37 years old in a dominant position.

7] No doubt, accused is behind bar since some days and charge-sheet submit before court on 21/05/2021, but it is not sole criteria to release accused in the heinous crime where his direct role appears. Record shows, he has taken undue advantage of the mental condition of victim, then he taken her in the bushes and committed such heinous offence with her. Eye witnesses also supported the prosecution story. Accused and victim are the resident of same locality, therefore there is possibility to repetition of same kind of offence in future and tampering. Hence, I do not find it is a just and proper stage to release this accused on regular bail. Hence, I pass following order.

O R D E R

Regular bail Application (Exh.4) is hereby rejected.

Panvel,
Date : 04/08/2021

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

Dictation started on : 2.20 p.m
Dictation concluded on : 2.45 p.m

Note :- Argument of both parties heard on 26/07/2021 and kept for case diary on 03/08/2021. Case diary produced on 03/08/2021, but court was busy in passing judgment in Spl.POCSO case No.417/2020, hence kept on 04/08/2021 and order passed on 4/08/2021.