

Order below Exh.17 in Spl.Case (POCSO)No.67/2021

The State
(Khopoli Police Station).... Complainant.

Vs.

Lingappa Mallaya Pujari... Accused.

01. This is an application, filed u/s 439 of Code of Criminal Procedure, for grant of bail filed by accused **Lingappa Mallaya Poojari** in C.R.No.78/2021 of Khopoli Police Station.

02. In short, the case of prosecution is as under-

Informant Smt.Pushpa @ Geeta Parasappa Daudmani lodged report with Khopoli Police Station on 26/03/2021. She alleged that on 24/03/2021 at about 07.30 a.m. she went to her workplace situated at Mulgaon. At that time, her three children are inside the house. Whenever she goes for the work, all her three children used to stay in the house. When she returned at 06.00 p.m. in the evening, at that time, one of her daughter and son Pravin were playing outside and the another daughter was doing household work inside the house. As usual, the informant started to cook food. Her elder daughter was not talking with her and she was silent. At about

09.00 to 09.30 p.m. after taking dinner, the informant asked victim whether she is not feeling well, why she is not talking. She took the victim in confidence and asked her why she is crying. At that time, she narrated that accused Lingappa Pujari residing in their locality made her to sit forcibly on his bike when she was coming from the river after washing the clothes. He took her on the bike from D.P.Road, IOC Company compound. There was jungle, he parked the bike by the side of the road and then took the victim by holding her hand in the bushes of jungle. He then removed her clothes. The victim resisted his act, but he slapped her on her face and removed his clothes. He made her to sleep on the surface and then he also slept on her and had a forcible sexual intercourse with her. He threatened her not to shout and not to tell anybody, or else, he will see her. However, on hearing her shouts, the neighbour residing there, more particularly, her maternal aunty Vijayalaxmi Bhosale, Sangita Bhosale, Shraddha's mother rushed on the spot. On seeing them, accused ran away. Thereafter, all the ladies dropped her at her home.

On 25/03/2021, in morning after taking a tea, when the ladies who have gathered on the spot, narrated the incident to the informant. Her cousin Anilkumar Daudmani came at the house of informant at about 04.00p.m. to whom the victim has narrated the

incident. there was discussion in the house and then they went to the police station and lodged report.

03. By filing application for bail at Exh.17, it is the contention of the accused that, he has not committed any offence and he is innocent. He has been implicated in the false case. The investigation is completed and the chargesheet is filed. No purpose will be served by keeping the applicant behind the bars for indefinite period. There is change in circumstance since the applicant is not willing to continue with the matter. FIR has been registered out of revenge against the accused. There is absolutely no iota of evidence and there are no criminal antecedents against the present applicant. He is arrested merely on suspicion. He is ready to obey all the conditions of the Court. Hence, prayed for releasing him on bail.

04. On the contrary, learned prosecutor filed say at Exh.18 opposing bail application on the ground that if the accused is released on bail, there is possibility that he will commit same type of offence. He will pressurize the prosecution witnesses and would cause them threatening. He is not local resident, but he is residing at Chatakali, Tal.Shahapur, Dist.Yadgir, Karnataka State. Hence, prays to reject his bail application.

05. I have perused the chargesheet and the material filed on record. It is not in dispute that date of birth of victim is 29/04/2007

and on the day of incident, she was hardly 13 years 10 months old, whereas the accused is married man aged 37 years old. There are eye witnesses to the incident, because on 24/03/2021 incident occurred in between 01.00 to 01.30 p.m. The victim is partially mental disabled child and filing affidavit on record, obviously is nothing, but tampering with the prosecution evidence. To take disadvantage of partially mental disabled child is again another offence. The applicant is a married man and has two sons.

06. On perusal of medical evidence on record, there is mild intellectual disability, girl of minor age of 13 years 10 months has undergone penetrative sexual intercourse by the accused 37 years old which is the final opinion given by the doctor. Her hymen was ruptured. She has given history that a person took her in the bushes on the scooty. He touched his hand and mouth to her genital area after making her naked, then he inserted penis into her vagina. She noticed semen white thick colour fluid. She also noticed white thick fluid on the abdomen. The person then pressed her clothes, made her to sit on his scooty and left her at her home. Simply filing of affidavit at Exh.20 by the mother will not help the accused for grant of bail, because he committed severe crime upon a minor intellectual disabled child. He does not deserve for leniency to grant of bail. Her mother has given consent to release him even in the first bail application in which order was passed on 04/10/2022. The

charge-sheet is filed under sections of Scheduled Caste and Scheduled Tribes and Prevention of Atrocity Act. The chargesheet was already filed at the time of first bail application. There are no change in circumstances. As such, application deserves to be rejected. Hence, I proceed to pass the following order.

ORDER

Application of applicant/accused for grant of bail at Exh.17, is hereby rejected.

Panvel
Date- 31/01/2023

(Shaida Shaikh)
Extra Jt.District & Addl.Sessions Judge
Panvel-Raigad.