

Order below Exh.04 in Spl.Case (POCSO) No.98/2023

1. This is a bail application filed by accused Sagar Jalindar Jogdand in C.R. No. 33/2023 registered by Kharghar Police Station for an offences punishable under sections 363, 376(2)(i), 506 of Indian Penal Code and under sections 4, 5(1) and 6 of POCSO Act.

2. Brief facts of prosecution case is as under: -

Informant Jagdish Pralhad Pawar lodged report with the police on dated 25/01/2023 alleging that on that day at about 8:40 a.m. he took his elder sister at Kharghar. At about 9:30 a.m. he left his sister i.e. victim girl outside the house and he went for his work. Where is sister Sonu entered the house she did not found victim in the house. Thereafter one Rinku Subhash Jadhav informed at about 5:30 p.m. that victim is not in the house. She was searched even at Kharghar but was not found. When the mobile phone of Rinku was checked there was a photograph of accused Sagar. It was then learned that the accused Sagar had eloped the victim 5 days ago and then was an F.I.R. registered at Kharghar police station against accused Sagar. Therefore there was a great doubt upon accused Sagar that he might have took away victim from lawful guardianship of her parents. The F.I.R. came to be registered and the accused was arrested.

3. By filing bail application below Exh. 4 it is the contention of the accused that there is no evidence against the

accused and he has been falsely implicated in this case. The victim was 17 years 10 months old and she was in love affair relationship with the accused Sagar from 2020. Even prior to this incident the victim had eloped alongwith the accused voluntarily on 30/06/2020 and C.R. No. 134/2020 came to be registered by her parents though they were knowing that victim voluntarily went alongwith the accused. Only to have amount from the accused he has been involved in a false case. The victim has given an statement only under the pressure of her parents. Hence, prays to allow the bail application.

4. The Intervener Jagdish Pralhad Pawar filed say below Exh. 8 to the bail application of accused Sagar Jogdand contending that the accused has raised all false plea for getting bail from the court. He has not come with the clean hands. The victim is aged 17 years 5 months old and she is the niece of the Intervener. On 25/01/2023 accused took away the victim from the custody of Intervener. All this facts is clear from the statement given by the victim to the police u/s. 161 of Cr.P.C. Her statement u/s. 164 was also recorded. Wherein she had stated that the accused Sagar alongwith his brother-in-law Ajay had an unnatural sex with the victim girl. Accused used to make her drink coke by putting some intoxicated substance. Due to which the victim become unconscious and she was sexually assaulted by the accused. On 09/01/2023 the wife of the accused, his mother and sister threatened the victim showing her the letter send by the accused to

them. They were telling the victim not oppose the bail application. Hence, prays to reject bail application of the accused.

5. The prosecution strongly oppose the bail application by filing say below Exh. 6 contending that accused has committed a serious offence against the minor victim. He has committed this offence repeatedly and if he is release on bail he will hamper and tamper prosecution evidence. Hence, prays to reject bail application.

6. I have perused the chargesheet and written argument filed by learned advocate Shri. Sachin Kamble for the accused below Exh. 5. I have also heard learned A.P.P. Smt. Wade Madam. In the written notes of argument the accused has contended that the victim has left her house only because she has become very much desperate due to the trouble given by her relative Sonu Naik. However, under the pressure of her parents she has given her supplementary statement dated 09/03/2023 against the accused. She has left her house without informing her parents in the year 2020 and C.R. No. 139/2020 came to be registered at police station. The accused was arrested only on suspicion and he was in jail for 3 months. The present offence is also registered against the accused only under the pressure of the parents. On 04/03/2023 the victim was referred for medical examination. But she refused for medical examination. There is no evidence where accused has kept the victim after kidnapping her. PW-11 and PW-13 have given

the statements that victim left the house only due to trouble of Sonu Naik. Accused had never committed any sexual intercourse with the victim girl. He is the only earning member for his family. He does not have father and therefore he has to maintain the family. It is the victim who took the accused alongwith him due to trouble of Sonu Naik. Hence, prays to release him on bail.

7. On the contrary the learned A.P.P. Smt. Wade pointed out that the accused has committed repeated offence against the same victim. If the statement u/sec. 164 of Cr.P.C. is perused she has clearly stated that this is the third offence committed by the same accused against the same victim girl. The birth date of the victim girl is 24/08/2005. the offence is committed in march 2020. Even there were earlier 2 offences registered against the same accused. Hence, prays to reject the bail application.

8. In view of the argument made by both the sides I may like to discuss here that victim was before the court alongwith her advocate and she has clearly stated that the written notes relied upon by the advocate for the applicant is not in her handwriting. Accused is a married man, he is having a wife still then he is after the victim girl. Obviously the offence is of serious nature. The victim has clearly stated before the court that accused is already a married man and she do not want to keep any relation with him. Though the learned advocate relied upon the following cases :-

1. Order Dt. 10/11/2017 of High Court of Karnataka in Criminal Petition No. 6840 of 2017- Vishwanath Chikka Harijana Vs. The State by Vidyanayapura police.
2. Order dt. 01/02/2013 of High court of Karnataka at Gulbarga bench in Criminal Petition no. 15097 of 2013- Kishore S/o Krrishna Vs. The State of Karnataka.

9. However taking into consideration the facts and circumstances of the present case the above cited rulings will not be helpful to the present accused, since he is a married man and he has committed a repeated offence against the same victim who is not intersect in him. He is already a married person having a wife. He does not deserve for grant of bail. Hence, I proceed to pass a following order :-

ORDER

Application for bail stands rejected.

Sd/-

Panvel.
Date- 18/01/2024.

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