

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
PANVEL-RAIGAD

Special (POCSO) Case No.98/2021
Order below Exh.11
(CNR No.MHRG170012022021
State of Maharashtra V/s. Hasin Matin Mohammad

(Passed on 09/02/2022)

1] Applicant/accused - Hasin Matin Mohammad has sought regular bail u/sec.439 of Cr.P.C., of the offences punishable u/secs.363, 376, 365, 366 of Indian Penal Code, and under section 4 and 8 of POCSO Act in crime No.117/2021, of Police Station, Khandeshwar.

2] Perused application, say and record.

3] Ld.Adv.for applicant/accused submitted that, in the month of May 2021 this accused was arrested. He is just 19 years old. Charge-sheet submit before court, but trial could not commence till date. Near about 9 months he is languishing behind bar. Medical report of victim does not supported at all. Hence, no purpose will suffice to keep this accused behind bar. Hence, prayed regular bail of present applicant/accused.

4] Ld.APP Shri.Patil objected and submitted that, no

doubt medical report not supported, but statement of victim clearly reveals that, this accused committed forcible sexual intercourse with her. Prima facie evidence found against this accused. No change in circumstances shown by him. Therefore, not proper stage to release him on regular bail.

5] I have gone through the record and found, accused arrested on 29/05/2021 and charge-sheet submit on 26/07/2021, however till date by one or other reason trial could not commence. Statement of victim shows, this accused committed sexual intercourse without her will, but to prove the said fact corroborative evidence i.e. medical report is on record, however the said report clears that, her hymen intact and as per opinion of medical officer there is no evidence of penetrative sexual vaginal intercourse. Also, there is no evidence of hymen tear. Needless to say that, statement of victim is most important and has paramount consideration, but the medical evidence also required to consider to support her submission. However, medical evidence does not corroborated with the submission of victim.

6] Material point is, accused is aged about 19 years old and behind bar since 9 months. Trial also could not commence since the month of July 2021 and it cannot comment that how much time will it get to commence the trial. Hence, no purpose

will suffice by keeping him behind bar. Apprehension of prosecution can be taken care by imposing some harden conditions on him. Hence, I pass following order.

ORDER

1. Regular bail Application (Exh.11) is hereby allowed.
2. Applicant/accused- Hasin Matin Mohammad be released on bail of the offences punishable u/secs.363, 376, 365, 366 of Indian Penal Code, and under section 4 and 8 of POCSO Act in crime No.117/2021, of Police Station, Khandeshwar, on his executing bond of Rs.15,000/- with one surety in the like amount on following conditions -
 - a] He shall attend the court on each and every date without fail.
 - b] He shall not pressurize with the informant and prosecution witnesses.
 - c] Whenever he wants to leave his resident district, he shall obtain prior permission of this court.
3. If applicant/accused is unable to furnish any surety during the lock-down period, then he is permitted to deposit surety amount of Rs.15,000/- in the court and thereafter, he shall furnish surety in the like amount after lock-down period is over in the court.
4. The breach of above conditions shall lead to the cancellation of bail.

5. Bail before concerned court.

6. Hamdast allowed.

Panvel,
Date : 09/02/2022

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

Dictation started on : 3.00 p.m
Dictation concluded on : 3.15 p.m

Note :- Argument of both parties heard on 13/01/2022 and kept for order on 19/01/2022. On this date, court was busy in hearing of POCSO case 209/2020 and S.C.110/2019, hence kept on 28/01/2022 and thereafter on 09/02/2022, and order passed on same day.

CERTIFICATE

I affirm that the contents of this PDF file order are same, word to word, as per the original order.

Name of stenographer	P.S.Mhatre
Name of Court	District Judge-2, Panvel-Raigad
Date of Dictation	09/02/2022
Order signed by the P.O on	09/02/2022
Order uploaded on	21/02/2022