

MHRG170012072020



**ORDER BELOW EXH. 125**  
**IN SPECIAL POCSO CASE NO.122/2020**  
**KARJAT C.R.NO.84/2014**  
**AJIT DABHOLKAR AND 1 V/S. THE STATE OF MAHARASHTRA**  
**( PASSED ON 14<sup>th</sup> DAY OF SEPTEMBER, 2022 )**

This application is on behalf of the applicant/accused-  
Ajit Dabholkar vide Section 439 of the Code of Criminal Procedure  
to enlarge him on bail.

2. This application is strongly opposed on behalf of  
prosecution as per reply Exh.128.

3. Points for the determination and my findings thereon  
for the reasons stated below ;

<b>SR. NO.</b>	<b>POINTS</b>	<b>FINDINGS</b>
I.	Whether grounds are justified to release the applicant/accused on bail vide Section 439 of the Code of Criminal Procedure ?	No.

II.	What Order ?	The application is Dismissed.
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### **REASONS**

4. Perused application, say filed. Heard learned advocate for the applicant/accused and learned A.P.P for State.

### **AS TO POINTS NO. I AND II :**

### **BRIEF FACTS OF PROSECUTION :**

5. The informant is social worker - Dr.Anuradha Hemant Sahastrabuddhe. The accused No.1 was running a Boarding school (Ashram Shala). The said Boarding school was without any recognition or permission of the competent authority. The informant received several complaints in respect of scandalous, indecent, sexual exploitation, touching to the child inappropriately, nude dance, inserting foreign articles in private parts of the child at Boarding school, compelling child for sexual intercourse etc. The informant alongwith other staff members of the Child Welfare Committee have inspected the Boarding School and asked to the child at Boarding School, that time found substance in the complaints against accused.

6. On that count, the informant lodged the report Dated

26.05.2014 at Police Station, Karjat. The Police Station Karjat registered Crime No.84/2014 for the offence under Section 376(2) (d)(h), 377, 354(A)(B), 509, 342, 420, 34 of the Indian Penal Code and Section 3, 4, 5(f)(l)(m)(o)(p), 6, 7, 8, 9(f)(l)(m)(n)(o), 11, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), under Section 23 and 24 of the Child Labour Act against the applicant/accused.

7. The applicant/accused is arrested on 26.05.2014 and produced before the Court on 26.05.2014 and initially remanded to police custody till 09.06.2014 and then remanded to judicial custody as per order Dated 09.06.2014. The accused is presently in judicial custody.

**THE COMPLIANCE OF SECTION 40 READ WITH RULES- 4(13) AND 4(15) OF THE POCSO ACT - RIGHTS OF VICTIM -**

8. Recently Hon'ble High Court **in the case of Arjun Kishanrao Malge Vs. State of Maharashtra and others in Public Interest Litigation No.5 of 2021 Dated 08.04.2021** held that;

*“when an application is made before the Court on behalf of the accused, it shall be the duty of the accused to issue notice of hearing of such application to the child's family or as the case may be, the guardian, and where a legal counsel on behalf of the child is*

*already on record, to such legal counsel, along with all relevant documents and the record necessary for effective participation in the proceedings.”*

9. In pursuance of these directions, prosecution issued notice to the informant. The victims are the students of the Boarding School (Ashram shala). The total number of victims are serial No.1 to 29. Looking to their age and number of victims, practically it is not justified to issue notice to each victim. Thus notice issued to informant only. The informant is bed ridden and she is not able to attend. She has shown willingness to attend the matter through Whatsapp video call. However looking to her health condition, it is not able to extend opportunity of hearing to her. The learned A.P.P Smt.D.R.Patil as well as the officers of the investigating agency are present for hearing of this application.

#### **WHETHER GROUNDS OF BAIL ARE MADE OUT ?**

10. The investigation of this crime is over. The charge-sheet is filed on 22.08.2014 against the accused. Initially, this matter was pending before Sessions Court at Alibag. The charge is framed against accused on 16.05.2016. The examination of prosecution witnesses was continued. Then the matter is transferred to Panvel Sessions Division in the year 2019. This

matter is re-registered as Special Pocso Case No.122/2020. The prosecution has examined 19 witnesses. The last witness is examined on 04.03.2022. Subsequently my predecessor was due for transfer as such concluded part-heard work in front of her.

11. I took charge of this court in the month of June 2022. When the matter was firstly came before me, that time it was for examination of rest witnesses. However advocate for this accused No.1 has withdrawn his Vakalatnama and accused No.1 intends to engage other advocate. He sought time to engage advocate. Then the advocate appeared for him and requested for time to get information since the matter is voluminous. Then the said advocate has also not came back to appear for accused. Again the accused No.1 engaged present advocate. After appearing this new advocate, present application for bail is filed. The hearing of this bail application is continued and it is reserved for order.

12. On the backdrop of this factual position, the contention of learned advocate of accused that the accused is behind bar for more than 8 years and the trial is not commenced does not hold water. The prosecution has examined 19 witnesses and rest witnesses are to be examined. The progress of the trial is hampered at the instance of accused No.1 only since the advocate on record appearing for him has withdrawn vakalatnama and has

not continued it. Due to frequent change of advocate by accused No.1 the progress of hearing is hampered.

13. Further looking to the nature of offence, it appears that there are in all 29 victims of the Boarding School. Looking to their age and the manner of commission of offence by the accused No.1 apparently it is a heinous crime, the accused No.1 does not deserve for leniency to extend him on bail. The children were sexually exploited and abused. There is a substantive material against the accused No.1 in the light of charge-sheet.

14. One more crime against this applicant under Section 387 of the Indian Penal Code is pending at Paydhuni Police station, Mumbai. It requires considerable time for examination of rest witnesses considering voluminous record. The same will not be a ground to extend him on a bail. Thus showing leniency to this applicant to enlarge on bail will defeat the very purpose of object of enactment of POCSO Act. Looking to the serious nature of offence, the applicant does not deserve for bail. I answer Point No.I in the negative. With this, I pass following order;

### **ORDER**

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| 1. | The application for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant is dismissed. |
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2.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

**Place : Panvel.**

**( K.G. Paldewar )  
 Additional Sessions Judge,  
Panvel**

**Date : 14.09.2022**

Arguments heard on	26 <sup>th</sup> day of August, 2022
Judgment/Order delivered on	14 <sup>th</sup> day of September, 2022
Dictated on	14 <sup>th</sup> day of September, 2022
Transcribed on	15 <sup>th</sup> day of September, 2022
Checked and signed on	16 <sup>th</sup> day of September, 2022

### **CERTIFICATE**

I affirm that the contents of this PDF file Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : P.S.Mhatre  
 Name of the Court : Additional Sessions Court,  
 Panvel  
 Date of Judgment/Order : 14.09.2022  
 Judgment/Order signed on : 16.09.2022  
 Presiding Officer : K.G. Paldewar  
 Judgment/Order uploaded on : 16.09.2022