

MHRT010007032023



IN THE COURT OF ADDITIONAL SESSIONS JUDGE, RATNAGIRI

(Presided over by A.M.Ambalkar, Addl. Sessions Judge, Ratnagiri)

SESSIONS CASE NO.30 OF 2023

State of Maharashtra,
Through, Inspector of Police,
Devrukh Police Station,
Crime No. 160/2023.

Prosecution

Versus

Aniket Suresh Shivgan

Accused

Order Below Exh. 05

(Dictated and delivered in open Court on 25/01/2024)

(1). Applicant / accused Aniket Suresh Shivgan, in Crime No. 160/2023, for the offences punishable under Sections 376(2)(f) (n)(l) of the IPC registered with Devrukh Police Station, filed this bail application U/Sec. 439 of Cr.P.C. for grant of regular bail.

(2). It is prosecution case that the mother of victim girl lodged report that accused is her son-in-law and he is husband of her one of the daughter. They were residing at Bhandarwadi Devrukh.

They are having a small son. Therefore, to take care of the said small son the informant sent her another daughter i.e. victim girl at the house of accused. As such, the victim girl is sister of applicant's wife. The victim girl is feeble minded (गतिमंद). In the month of July 2023 the said victim girl returned to her house at village Kadwai. She was feeling uneasy, therefore, the victim girl was taken to government hospital. Doctor advised for sonography. After conducting sonography it revealed that victim girl is pregnant. Informant asked her as to how she became pregnant. Then she informed that accused had sexual intercourse with her twice. Thereafter, she, her husband and other relatives told about the incident to society members and they called to accused. Accused admitted that he is responsible for the said pregnancy and promised to marry with victim girl. Hence, the report.

(3). The applicant/accused submitted that, he is innocent and has not committed the offence. He has been falsely implicated in this crime. The complaint is filed belatedly. The applicant is young and sole earning member in his family. His wife and child are depending upon him. The applicant is resident of Sangameshwar and he will not abscond. He is in jail since 09.09.2023. If he is released on bail he will not pressurize or induce to informant or any witnesses and he is ready to abide by the conditions. The prosecution has not given any justification for delay. The alleged incident occurred during March 2023 to July 2023 and the report has been lodged in the month of September 2023. The victim girl has been shown to be mentally slow. However, the record shows that she has taken education up to 9th standard and her progress column in the Leaving

Certificate shows that her progress was fair. The statement recorded under section 164 of CrPC shows that no allegations are made against the applicant/accused. Investigation is completed. Charge-sheet is filed. Further custody of applicant is not necessary. He is ready to abide every conditions if imposed by the Court. Finally, he prayed to allow the application.

(4). Investigating Officer resisted the application by filing say at Exh. 06 and submitted that offence is serious one. Victim girl is mentally disabled. The accused/applicant was entrusted with such girl and he committed breach of that trust and committed rape upon victim girl who is not fully capable of understanding because of mental disability. The applicant is close relative of informant and victim girl. He will pressurize or induce the informant and victim girl. Finally prayed to reject the application.

(5). Heard learned Advocate Shri. V. S. Gadre for the applicant and learned APP Shri.A. A. Phansekar for the State. Perused the application, say and documents.

(6). Charge-sheet is before the Court. I have gone through the papers consisting of statement of victim girl and her mother recorded u/s.164 of Cr.PC., the papers of medical examination, etc.. On perusal of statement u/s.164 of Cr.PC., it is clear that the mother of victim girl has not stated anything against the accused. The victim girl appears to have stated that the accused met her four times and he gave trouble to her. The Magistrate recording said statement observed that the victim girl is mentally slow and she is not giving

proper answers to the questions.

(7). The medical papers produced on record shows that Medical Officer observed that the victim girl is suffering from intellectual disability and she was disoriented. It further reveals that proper history could not be taken because of intellectual disability of the victim girl. Victim girl was found to be pregnant.

(8). These circumstances clearly show that the victim girl was not able to respond to anybody correctly and in proper manner. The charge-sheet clearly *prima facie* shows that the victim girl came to contact with accused as she is the sister of wife of accused. She became pregnant. Victim girl stated that accused troubled her. As such, in these circumstances, the delay can not be the ground while considering bail application. Therefore, I came to conclusion that considering aforesaid facts and circumstances, the applicant is not entitled to grant of regular bail. Hence, I proceed to pass the following order :-

ORDER

1. Application Exh.5 stands rejected.
2. Inform the concerned accordingly.

Date: 25.01.2024

(A.M. Ambalkar).
Additional Sessions Judge, Ratnagiri.

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

Case Number		Sessions Case No.30/2023
Name of Stenographer	:-	Shri. Rajesh G. Rahate
Name of Court	:-	Addl. Sessions Judge, Ratnagiri
Date of Dictation	:-	25.01.2024
Order signed by the P.O. on	:-	25.01.2024
Order uploaded on	:-	25.01.2024