

ORDER BELOW EXH. 18 IN SESSINO CASE NO. 30 OF 2023
CNR NO. MHRT010007032023

The State of Maharashtra	Prosecution
<i>Versus</i>	
Aniket Suresh Shivgan	Accused

1. The applicant/accused Aniket Suresh Shivgan has filed this application under Section 483 of B.N.S.S. Act for bail from the offence having CR No. 160/2023 of Deorukh Police Station of the offence punishable u/s. 376(2)(f)(n)(l) of the Indian Penal Code.

2. The brief facts given rise to this case are as under

The accused is son-in-law of complainant. Her second daughter Tejal has performed love marriage with accused Aniket Suresh Shivgan. The victim is her daughter aged 26 years. She has studied upto 9th standard, but, mentally disabled. Her daughter Tejal and her husband i.e. accused are staying at Deorukh, Bhandarwadi in rented accommodation. They are on visiting terms to her house. The accused is working as driver. He is having one son from Tejal. To look after child of Tejal, victim was taken to her house at Deorukh Bhandarwadi in March 2023. She stayed with Tejal and accused in that house in between March 2023 to July 2023. During that period taking undue advantage of her mental illness, accused has established sexual relation with her and out of that she became pregnant. Therefore, complainant lodged report and accordingly this offence is came to be registered. In this case, investigation is already completed and charge-sheet has been filed against the accused.

3. Chief LADC Officer Shri. Waykool in his argument stated that there is delay of 6 months in lodging FIR. No explanation offered for the delay. The victim is 5 years elder than the age of accused. The complainant convened a meeting with her brothers and other villagers and all of them compelled to accused to marry with victim. In this case, till this date only one witness has been examined by the prosecution. The accused/applicant is sole earning member of his family. His old aged mother and one child is dependent on his income. The place where alleged incident happened is one room of 10X10 ft. Therefore, it is improbable and unbelievable that accused has committed this crime at such a place against his close relative i.e. sister of his wife. For completion of trial sufficient time will be required. Till then it is not necessary to detain the applicant in jail. Accused had never committed any crime as alleged against him. He never had intention or motive to commit such crime. He has been falsely implicated in this case. Therefore, further detention of applicant is not necessary. Hence, he may be released on bail.

4. Advocate for applicant/accused in support of his argument placed reliance the case of **Nitin Damodar Dhaberao Vs. State of Maharashtra, dated 05.01.2024 delivered in Criminal Application (Bail) No. 718 of 2023 by Hon'ble Nagpur Bench of Bombay High Court.** That case was also rape case upon victim aged 13 years. In that case it was observed that victim has joined company of applicant. She had love relationship with him. She stayed along with him at various places and did not make any grievance. Thus, out of love affair she joined his company. The incident of sexual relationship is resulted of attraction between them. It was not case of victim that applicant had subjected her for a sexual assault out of lust. In that case there was no progress in

the trial. Further incarceration of applicant is not required. Hence, he was released on bail.

5. Reliance is also placed on order of Delhi High Court in case **Sunny @ Ravi Kumar Vs. State of NCT of Delhi. Dated 29.04.2024 in Bail Application No. 3580/2023**. In that case there was inordinate delay of more than 1.5 years in lodging FIR. No explanation was offered for the delay. Accused had established forceful physical relation with prosecutrix on multiple occasions on the false pretext of marriage at his friend's house. The allegations has been made by the prosecutrix about the physical relations. At the time of the incident the prosecutrix was major. At the stage of hearing on bail application no evidence has been brought on record to corroborate that applicant had made any forceful relation with the prosecutrix. Therefore, in that case bail was granted to the applicant.

6. Ld. APP strongly opposed this application. It is her contention that offence is serious. The accused is close relative of victim. In this case charge is already framed and one prosecution witness is already examined. Prosecution is ready to keep its witnesses present hereinafter to conduct speedy trial. If applicant will be released on bail there is possibility of tampering of prosecution witnesses and evidence. Hence, this application may be rejected.

7. Facts of cases relied upon by the accused are totally different than this case. In this case accused is close relative of victim. He is husband of younger sister of victim. When victim was staying in his house to look after his child, he had taken undue advantage of her mental condition and established forceful sexual relationship and thereby made her pregnant and thereafter victim

was driven up. Thus, as compared to the incident mentioned in the above stated case, this case is serious. The prosecution already examined one witness and it is ready to keep its remaining witnesses present hereinafter and wants to complete the trial at the earliest. If at this stage applicant will be released on bail, taking undue advantage of his relationship, he may pressurize the prosecution witnesses and evidence. Therefore, no case made out for grant him bail. Hence, I pass following order.

ORDER

1. The application (Exh. 18) is rejected.
2. Inform the concerned accordingly.

(Pronounced in the open Court)

Ratnagiri

Date:- 21/11/2024

(S. S. Gosavi)

Sessions Judge, Ratnagiri.