

MHRT010009812024



Order below Exh. 7 in (POCSO) Special Case No.28/2024
CNR No. MHRT010009812024

The State

- Prosecution

Vs.

Sanjay Vasant Mulye

- Accused.

(1). Applicant / accused Sanjay Vasant Mulye, in Crime No. 63/2024, for the offences under Sections 75(1)(1), 75(1)(4), 75(2)(3), 351(2) of B. N S., section 8, 9(f)/10 and 12 of the POCSO Act, 2012 and sections 3(1)(w)(i)(ii), 3(2)(va) of the Prevention of Atrocities (S.C. & S.T.) Act, 1989, registered with Sangameshwar Police Station, filed this bail application U/Sec. 483 of Cr.P.C. for grant of regular bail.

(2). It is submitted that Mahesh Patade lodged report on 30/08/2024 and thereby made allegations against the teacher of Zilha Parishad School Wandri No.1 that the said teacher misbehaved with his daughter who is aged about 12 years and learning in the school in 6th standard and his daughter i.e., the victim girl informed him on 27/08/2024 about the facts of touching hands by accused to her breast by inserting the same in the zipper of frock. He immediately informed about the said act by accused to other

students' parents and inquired with them and then other girls also narrated that the accused/applicant used to pull the said girls near him and stand near very close to them and put his hand inside frock and also pulled them and make them sit on his thigh and brushed hand on their breasts and back and also used to say that if they do not drink milk to the school, he will force them to drink milk by holding them on his thigh. It was also narrated by the girls that the accused gave threats to those girls that if any of them discloses about it, he will see them and nobody can do any wrong with him. Therefore, the informant and other students' parents who disclosed the matter with Sau. Mayuri Mahesh Patil who is the president of School Committee. She told that on 30/08/2024, there was meetings of school committee and she will put the subject before the said committee.

(3). It is further put forth by informant that on 30/08/2024 about 3:00 pm, meeting of School Committee was there and in the said meeting, the Chairman, village Sarpanch Deepak Kinjale, Vice Sarpanch Shri. Somnath Mayekar, Head of the Centre Sau. Minakshi Rajkumar Nachankar, Tanta Mukti President Rajesh Haldankar and other respectable persons and parents of the students and the accused, teacher Sanjay Mulye were also present. In the said meeting, the informant and other students, parents raised a topic of behaviour of accused/teacher and they also described the acts committed by accused with the girls before the said meeting. Then the Head of the Center Sau. Minakshi Nachankar and President of School Committee called the daughter of informant and other girls who were learning in the school, those are around 9 girls and took

them in the separate room and made inquiry with each girl about the behaviour of teacher and the said girls affirmed the allegations against the teacher. Thereafter villagers asked about the allegations against him to the said teacher/accused. Firstly, he gave evasive answers and thereafter Police Patil Shri. Sunil Shigwan made inquiry with accused in presence of informant, other students' parent, then he admitted the guilt. Hence, the report.

(4). Applicant submitted that the applicant/accused has been arrested on 31/08/2024 in this crime and police custody remand was granted and thereafter he has been taken in judicial custody. Now the charge-sheet has been filed. The applicant is innocent and he has not committed any offence. Because of rivalry between Police Patil and the accused, this false and frivolous case has been filed against him. The colourful story has been prepared in order to create show some seriousness about the alleged conduct of applicant/accused. This is the first bail application filed by accused.

(5). It is further submitted by applicant/accused that the FIR in the present matter is filed at belated stage and therefore, there is a every possibility of manipulation, concoction and embellishment in FIR. In fact the present applicant/accused is Honored by "Aadarsh Shikshak Award". There being rivalry between Police Patil and accused and caste rivalry, this applicant/accused has been falsely implicated. The spot of so called incident is school situated in crowded area and all the class rooms are interconnected and attached with each other and accessible to all and therefore, such acts cannot be committed by the teacher with girl students. It is not

the prosecution case that alleged incident has been committed behind the closed doors. Therefore, the entire narration in the FIR is false one. It is further submitted by accused that if design of dress code is taken into consideration, it is absolutely impossible for committing such alleged act. The accused has been booked under the provisions of the Prevention of Atrocities (S.C. & S.T.) Act only to project colourful story. In fact the provisions of Prevention of Atrocities (S.C. & S.T.) Act are not applicable.

(6). The applicant/accused is member of respected family. If gone through the statements, it clearly appears that the stereotype versions are recorded by Investigating Officer. Applicant/accused is having age-old parents. The complainant and his supporters have used the provisions of Special Act, have been used as weapon to implicate the applicant. The prescribed punishment is neither death nor imprisonment for life. Therefore, considering the nature of accusation, the applicant is entitled to grant of bail. Accused is permanent resident of village Ambed Budruk, Tal. Sangameshwar, Dist. Ratnagiri, have been responsibility of age-old parents, therefore, there is no possibility of absconding. His further custody is unwarranted. The reason of tampering of prosecution evidence has been used by Investigating Officer mechanically. He is ready to co-operate with the investigation machinery. The applicant is in jail since around more than three and half months. Finally, it is prayed to allow the application.

(7). Investigating Officer strongly resisted the application and submitted that the applicant/accused is teacher and the victims are his girls students. There is sufficient evidence against the applicant/accused. He may induce the victims and their family members

or pressurize them. He may abscond. Finally, it is prayed to reject the application.

(8). The say of victim girls has been called. The students, the victim girls have also resisted the application by filing their say that if the applicant is released on bail, he may pressurize or threats to them and may commit more serious offence and submitted not to release on bail.

(9). Heard learned Advocate Shri. P.P. Nene for the applicant and learned APP Shri. A. A. Phansekar for the State. Perused the application, say and documents.

(10). Learned Advocate Shri. P.P. Nene relied upon following judgments.

1. Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh, 2024 ALL SCR (Cri) 1377
2. Sangram Sadashiv Suryavanshi Vs. The State of Maharashtra, in Cri.Appeal No.4758 of 2024, decided on 25/11/2024 by Hon'ble Supreme Court.
3. Mitter Dev Vs. State of Himachal Pradesh, 2017 ALL MR(Cri) Journal 103
4. Raj Kumar Kanchahedichal Raikwar Vs. The State of Maharashtra & Anr., 202 ALL MR (Cri) 1431
5. Navnath Mhasu Pawar & Ors. Vs. The State of Maharashtra & Anr., 2023 ALL MR (Cri) 1868
6. Sonu Vs. State of Haryana, 2020 ALL MR (Cri) Journal 376
7. Asif Yusuf Shaikh Vs. The State of Maharashtra & Ors., 2020 ALL MR (Cri) 2937

8. Shri. Nilesh Baban Kamble Vs. Sate of Maharashtra & Anr., 2021 ALL MR (Cri) 2722
9. Shri. Tarkeshwar Goraknath Pandey Vs. Sate of Maharashtra & Anr., 2011 ALL MR (Cri)1608
10. Suraj S. Paithankar Vs. Sate of Maharashtra, 2020(2) Acquittal 385(Bom.)

(11). Learned advocate Shri. Nene for applicant produced some photographs showing the class rooms and school premises wherein the accused, other lady teachers, girls students and boys students are seen. Learned advocate Shri. Nene invited my attention towards said photographs and submitted that wherever the accused is seen in the photographs with either girls students or lady teachers, then clearly seen that he had kept enough distance from them. He also invited my attentions towards photograph while accepting bouquet from girl students and submitted that while accepting bouquet also, the accused has maintained distance of his hands from hands of girl students. In one photograph, one girl student is doing some practical work on the board of the school in respect of mathematic subject, then it can be seen that the accused/teacher is sitting on the chair on the platform, however, at long distance from the girl who is doing work near board of the class room. He also produced the papers showing the dress code of uniform of the girls and he submitted that there is no any zipper to the said uniform of the girls which clearly shows the falsity of allegations of the prosecution story. Advocate Shri. Nene further submitted that this stereotype statements signed by victim girls are nothing but the conspiracy against applicant/accused who has been falsely implicated in this case. He further submitted that the nature of accusation clearly shows that such allegations are very easy to make. The prescribed punishment is not imprisonment more than 7 years. He also submitted

that the applicant/ accused is behind the bars since more than three and half months. There is no possibility of conclusion of trial in near future. He further submitted that so far as fear of Investigating Officer is concerned, stringent conditions may be imposed against him and now the accused has been suspended, therefore, he will not enter in the premises of school and he will not contact any of the victim girl or their parents. He further submitted that keeping the applicant/accused behind the bars for uncertain period, is equal to imprisonment without trial and conviction without trial.

(12). The learned advocate Shri. Nene relied upon various judgments cited supra which are favourable to accused. So far as grant of bail or refusal of bail is concerned, certainly there are various considerations which are required to be taken into consideration while granting or refusing bail. In the present matter, prescribed punishment for alleged offence is not more than 7 years and if in such circumstances, if accused is kept behind the bars for uncertain period, no purpose would be served.

(13). Learned APP strongly resisted the application and submitted that the applicant is a teacher who is in fact custodian of the school children and if he commits such serious act, then he is not entitled to grant of bail.

(14). Considering the aforesaid facts and circumstances, nature of accusation, the period of detention of the applicant/accused and the fact that the charge-sheet has been filed and trial cannot be concluded within early times, the applicant/accused can be said to be entitled to grant of regular bail with stringent conditions. Hence, I proceed to

pass the following order :-

ORDER

1. Application Exh. 7 is allowed.
2. Applicant / accused Sanjay Vasant Mulye, in Crime No. 63/2024, for the offences under Sections 75(1)(1), 75(1)(4), 75(2)(3), 351(2) of B. N S., section 8, 9(f)/10 and 12 of the POCSO Act, 2012 and sections 3(1)(w)(i)(ii), 3(2)(va) of the Prevention of Atrocities (S.C. & S.T.) Act, 1989, registered with Sangameshwar Police Station, Tal. Sangameshwar, Dist. Ratnagiri, shall be released on furnishing P.R bond of Rs. 50,000/- (Rs. Fifty Thousand) with surety in the like amount.
3. He shall not enter the premises at school without permission of the Court.
4. He shall not meet or contact with any of the victim girls or their parents.
5. If occasion arise to attend the school for any official purpose, then he shall seek permission of the Court.
6. The I.O. is at liberty to apply for cancellation of bail at the event of breach of conditions.
7. Inform the concerned accordingly.

Date: 20.12.2024

(A. M. Ambalkar)
Judge, Special Court, 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		(POCSO)Spl.Case No. 28/2024
Name of Stenographer	:-	Shri. Rajesh G. Rahate
Name of Court	:-	Addl. Sessions Judge, Ratnagiri
Date of Dictation	:-	20.12.2024
Order signed by the P.O. on	:-	20.12.2024
Order uploaded on	:-	21.12.2024