

ORDER BELOW EXH. 03

The State Vs. Vishal Digambar Patole

01. This is regular bail in connection with C.R.No. 652/2023 registered with Pandharpur city Police Station, for the offences p.u.s. 376, 376 (2)(n) of the Indian Penal Code and u/s.4, 5 (j)(2), 5 (l), 6, 8, 10 and 12 of the POCSO Act.

02. In brief, facts of the prosecution case are as under -

The complaint is lodged by the mother of victim. At the time of incident the victim was aged about 17 years. The allegations are that accused established love relations with the victim and committed forcible sexual intercourse. Due to act of the accused, victim becomes pregnant for four months. The complaint is lodged on 10/10/2023. After investigation the chargesheet is filed.

03. Applicant/accused submitted that he has not committed any offence. Chargesheet is filed. His further custody is not required. The victim was aged about 17 years having level of maturity and intellectual to understand the nature of the act. The allegations are vague and general in nature. The provisions under POCSO Act and I.P.C. are not attracted. Hence he may be released on bail.

04. APP submitted reply vide Exh.5 submitting that the offence is serious and punishable with life imprisonment. The victim becomes pregnant for four months. There is nothing to show that there were consensual sexual relations. Further submitted that the matter can be expedited.

05. Victim filed say and strongly objected and prayed for rejection of application.

06. Heard advocate Shri. Sarate for the applicant/accused. He submitted that the story put up by the prosecution shows that there were consensual relations. The victim was aged about 17 years having level of maturity and intellectual. Accused is also aged about 20 years of age. In such circumstances subject to conditions, he may be released on bail. Further reference is made to case of *Imran Iqbal Shaikh Vs. The State of Maharashtra and Anr. in [Bail Application No. 997 of 2022]* by Hon'ble Lordship of Bombay High Court, dtd. 26/04/2023, wherein Hon'ble Lordship held that "considering the prima-facie indication of consensual relationship, bail application was granted'. Also reference is made to the case of *Sanjay Kumar Vs. State Govt. of NCT of Delhi and Anr. [Bail Appln. No. 2898/2022 & CRL.M.A. 26860/2022]* by the Hon'ble Lordship of High Court of Delhi dtd. 28.07.2023. The reference is about sufficient maturity and intellectual capacity of the victim was considered.

07. Ld. AGP for the State submitted that the allegations are about forcible sexual intercourse. Even the victim was minor her consent has no material value. The accused prima-facie involved in commission of crime. The victim becomes pregnant. These circumstances show prima-facie guilt of the accused.

08. Upon hearing rival submissions, perused chargesheet. Admittedly, the victim was aged about 17 years. The allegations show that he was residing nearby lane. Initially the accused insisted for the friendly relations and thereafter created intimacy with the victim.

Further allegations shows that he assured for marriage. Also the allegations shows that though the victim refused for the same, penetrative sexual assault was done. From the submissions on behalf of the accused itself shows that he committed the act of penetrative sexual assault. It appears that the victim becomes pregnant for 16 weeks. Prima-facie there appears to be involvement of the applicant/accused in serious crime. Further it appears that the victim submitted strong objection by filing separate say stating that her life is in danger and accused side are making pressure to withdraw the complaint.

09. Considering the overall circumstances and prima-facie involvement in commission of crime, the accused/applicant is not entitled to be released on bail. The trial can be expedited. Hence order.

ORDER :

01. The bail application Exh.3 is rejected.
02. Issue to letter to jail authority for production of accused for framing of the charge.
03. Also issue letter to investigating officer or investigating machinery for production of C.A. report on muddemal.

Date : 16-10-2024

Sd/-
(S.B. Desai),
Special Judge, Pandharpur.