

*Sessions Case No. 67/2023.  
Dinesh Borkar V/s. State.  
(CNR No. MHYA010011582023)*

**-: FINAL ORDER BELOW EXH.19 IN SESSIONS CASE  
BEARING NO.67/2023. :-  
(Delivered on this 19<sup>th</sup> Day of August 2024)**

1. Accused applicant invoked jurisdiction of this court vide Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with C.R. No. 23/2023 registered with Yavatmal City Police Station, Dist. Yavatmal for the offence punishable U/secs. 376, 376(1) and 323 of the Indian Penal Code.
2. Perused application and say filed on behalf of prosecution below Exh.20. I have gone through entire record minutely.
3. Offence of rape is alleged against the accused. Charge sheet is filed before this Court and now it is stand over for further due deliberation and trial. In the backdrop, when the case is fixed for further consideration, the applicant accused, knocked the doors of this Court with instant second bail application and implored for his release on suitable bail. The prosecution resisted freeing of the accused on the count of gravity of crime as well as threat to the witnesses who are resident of same vicinity. They prayed for rejection of the application out-rightly.
4. Heard learned advocate Mr. Ajay Dani for the accused applicant through LADCS and learned A.P.P. Mr. V.S. Telang for the prosecution, at length.
5. Mused over application as well as say cum other documents pertaining to investigation as made available by the prosecution keenly.

6. It is significant to mention here that, principally offence U/secs. 376, 376(1) and 323 of the Indian Penal Code, is alleged against the accused. The serious offence like rape is posed against the applicant. The grounds of accusations raised against the accused are very grave in nature and prescribe sentence up to life imprisonment. It is a case of forcible sexual intercourse with an old lady, who is grandmother of the applicant. It seems if the incident is true the applicant has crossed all the limits and dishonored the relations. The victim is old infirm lady who is unable to maintain herself. She cannot safe-guard herself and in the event, in his own family, the applicant attempted to did such ill act. The evidence against the applicant is clear. It shows his *prima facie* involvement. The earlier bail application of the applicant accused was rejected on merits. Since then there appears no change in circumstances emerged. Now the case is fixed for recording evidence and as such there is progress shown in the trial by the prosecution. Few of the documents are already admitted by the defence. The case would jump shortly without any delay. If the matter is expedited and taken up on day to day basis, it will serve the purpose. There appears positive evidence against the applicant which need to be tested at the time of trial. Indeed, the applicant is behind the bar since his MCR but at the same time it is epochal to mention here that the bunch of accusations posed against him are too grave and serious, which are supported by positive evidence. There is eye witness of the incident. Ultimately, there is *prima facie* substance and material in the accusations. It is a case of rape over physically disabled person who might be helpless in all senses. While striking balance such factual aspect can not be overlooked. There is ample circumstantial evidence which reveals *prima facie* involvement of applicant in the crime. All statements of witnesses and papers primarily suggest the incident and supports the prosecution. Even there are no documents showing that the accused is craving for any medical

(3)

emergency. Hence, there are no grounds to stand upon. For want of change in circumstances so also considering the progress in the case, I believe, at this stage, the accused is not entitled for bail.

7. Owing to foregoing peculiarities and factual scenario, Considering the grave nature of offence and trial is in progress, it would not be proper to release the applicant/accused on bail, at the moment. Hence, I pass the following order :-

**ORDER**

Application stands rejected

Date : 19.08.2024.

**(Amit Anant Laulkar)**  
Additional Sessions Judge,  
Yavatmal.