

MHST170005592022



IN THE COURT OF ADDITIONAL DISTRICT AND
SESSIONS JUDGE, VADUJ, AT : VADUJ, DIST. SATARA.

Criminal Bail Application No. 192/2022

Mr. Rohit Haridas Mane

Vs.

The State of Maharashtra

ORDER PASSED BELOW APPLICATION AT EXH. 1

(Passed on this 11th day of November, 2022)

After going through the contents in the application and say/remarks filed by the Learned APP for the State and material available on record the following points arise for my determination and I have recorded my findings thereon with reasons thereto which are as follows :

<u>Points</u>	<u>Findings</u>
1. Whether there are sufficient grounds to grant bail to the applicant/accused in accordance with the provision of Sec.439 of Cr.P.C. ?	: Yes.
2. What order ?	: Application is allowed.

REASONS

As to Point No.1 and 2 :-

2. The complainant (the name has not disclosed as there are

allegation for an offence under POCSO Act in addition the offence punishable under Section 376(2) of the Indian Penal Code and other offences) who is admitted in Civil Hospital, Satara on 08.09.2022 give a statement wherein she contended that she is taking education in a college in 11th std. The applicant/accused who is student of said college came in her contact as they were meet with each other frequently. Their relations turned into love relations. They decided to enter into marriage after attained of majority. She further alleged that in February, 2022 the applicant/accused called her in the side which is spot of incident at about 2.00 p.m. When she had been there along with accused, the accused pretended her to enter into marriage with her and committed sexual intercourse with he against her will. According to her the accused was aware of the fact that she is minor and has not completed the age of majority and not in a position to give consent. Irrespective of this fact he committed sexual intercourse with her in forcible manner. Thereafter, he again entered into sexual relations in the month of May 2022. On 23.02.2022 the complainant informed her mother that she has not yet attained menstruation period therefore, she had been in the dispensary of Dr. Godse. Dr. Godse gave some tablets to her however, she started to suffer stomach ache due to those tablets and become uneasy. Therefore, she was admitted at Civil Hospital Satara for treatment. When the medical officer at Civil Hospital Satara medically examined her he informed her that she is pregnant for the period of 16 months. Accordingly she gave her statement wherein she alleged that the applicant/accused though aware of

the fact that minority entered into sexual intercourse with her in forcible manner against her will and as a result of it she become pregnant. The complainant filed report against the applicant/accused for the offences punishable under Section 376(2)(N) of the Indian Penal Code and under Section 3, 4, 5 and 6 of the POCSO Act at Pusegaon police station under C.R.No. 287/2022.

3. The applicant/accused is arrested in connection of this case. He has come with the case by way of application under consideration that no any offence as alleged is occurred at all. He has not committed any offence. The applicant has no any concerned in respect of pregnancy of the complainant. He is serving in a society as a clerk. His name is unnecessary implicated in this offence on the background of political rivalry. The ground of occurrence of delay to set the law in motion is also raised by him. The allegation in report are vague.

4. The learned counsel for accused submitted entire background of the case under consideration and submitted that there is no sufficient material on record to prove the involvement of the accused under consideration at this prima-facie case. The learned counsel invited my attention towards allegation in report and submitted that if the allegation in report are considered as a whole then definitely it reveals that the complainant has attended the age of understanding. She is also aware of the consequences of the act. If the allegations are further considered then definitely

possibility cannot be ruled out that the relations between himself would have come with knowledge to her. The learned counsel submitted that the investigation of offence is now over. The charge-sheet is also filed against the accused. No prejudice will cause either to the complainant or to the prosecution if the applicant/accused is released on bail at this stage. The learned counsel submitted that the applicant/accused is ready to abide all the conditions laid down by this Court while releasing him on bail.

5. The learned Additional P.P. for State file his remarks wherein he reproduced all the allegations in report relying upon the report of investigation authority material placed on record by way of charge-sheet and allegation in report he submitted that offence under consideration is of serious nature. The complainant who is victim of offence is coming within definition of child under the POCSO Act. Though she has stated that she was under love relations with the applicant/accused the applicant/accused has committed sexual intercourse with her though she was aware of the fact that she is not in position to give consent for it due to her childhood. The offence under consideration is of serious nature. The offence under consideration prima-facie appears to be statutory rape. If applicant/accused is released on bail there is possibility of tampering of evidence as well as creation of pressure on prosecution witnesses as the applicant/accused and victim of offence are residing in same village. For all these reasons he prayed for rejection of application.

6. I have gone through the allegations in report and material placed on record on the background of statement of learned counsel for the applicant/accused and learned Additional P.P. for State it is admitted fact that applicant/accused and complainant victim were known to each other. They are student of same college. They came in contact of each other and entered into love relations. The allegation in report under consideration prima-facie goes to show that the applicant/accused entered into sexual intercourse with the complainant as a result of it she become pregnant. If the fact and circumstances of the case under consideration are considered as a whole at this prima-facie stage then definitely it can be inferred that the complainant victim has attained the age of understanding as they were having love and affection with each other. Prima-facie it cannot be ruled out that the complainant voluntarily came in contact of the applicant/accused. The facts and circumstances of the case goes to show that no any sort of force was applied on the part of applicant/accused. The offence under consideration was disclosed after her admission in hospital. Now, the investigation is over. Considering the nature of the offence, facts and circumstances of the case no prejudice will cause to the investigation authority if the applicant accused is released on bail upon certain strengthen condition laid down in final order which will help to rule out the possibility of tampering of evidence and creation of pressure upon prosecution witnesses as submitted by Ld. APP. In the result, I answer point No.1 in affirmative and proceed to pass the following order.

ORDER

1. Application is allowed.
2. Applicant/accused Rohit Haridas Mane residing at Khatav, Tal. Khatav, Dist.Satara be released on furnishing P.R. Bond of Rs. 25,000/- (Rupees twenty five thousand only) and surety bond of solvent surety, on compliance of following conditions.
 - a) Applicant/accused should not come in contact of the complainant victim in any manner during the period of pendency of this case and shall not enter at her village and came directly her contact at any place till conclusion of trial of this case.
 - b) The applicant/accused is directed to file separate undertaking in this regard that he will not try to contact either complainant or her family members as well as victim of offence in any manner. He himself or any member of his family or any person related to him will also not remain in touch with any of them through any mode till conclusion of trial of this case in order to avoid the possibility of tampering of evidence as well as creation of pressure upon prosecution witnesses.
 - c) Applicant/accused shall attend each and every date fixed in this case and in addition to it he is also directed to give his attendance at Pusegaon police station on first date of each

month till conclusion of trial. The Police Inspector of Pusegaon police station is directed to maintain the register of attendance of applicant/accused at police station. The Police Inspector is also directed to keep watch on the behaviour of applicant/accused during the pendency of this case to rule out the activity of tampering of evidence as well as creation of pressure upon the prosecution witnesses during the pendency of this case.

- d) Non-compliance of any of the condition shall be treated as breach of the condition of bail bond and in that case the prosecution has liberty to move an application for cancellation of bail.

Place: Vaduj
Date : 11.11.2022.

(Rajendra V. Huddar)
Addl. Sessions Judge, Vaduj.