

The State of Maharashtra & Anr. ... Respondents

Ms. Savita Yadav, APP, for the Respondent/State.

DATE : 12TH AUGUST, 2024.

3. The learned counsel for the applicant points out that in initial complaint registered on 17.04.2023, the victim has not named the applicant. The initial complaint was against the accused no. 1. Thereafter, the supplementary statement was recorded in which the

applicant was named. It is further stated that no explanation has given for not stating the name of the applicant in the first complaint.

4. As far as allegations are concerned, the allegations against all the accused persons are similar in nature.

5. The DNA report says that out of 15 different genetic systems analysed with PCR, Dhanaji Daivat Karche (applicant) did not match the obligate paternal alleles present in the Sternum bone of MCH of Rutuja Santosh Pase. She, therefore, submits that the applicant may be released on bail.

6. On the other hand, the learned APP strongly opposed the application. She submits that on the date of registration of the offence the victim was 13 years and 7 months old and since the offence is serious, this Court may not grant bail to the applicant.

7. The learned counsel for the respondent no. 2 – victim states that she has received telephonic instructions from the parents of the victim and they have no objection, if the bail is granted to the applicant.

8. Having considered and gone through the charge-sheet of the relevant material collected by the IO, during the investigation, it is evident that in the initial complaint the applicant was not named and after two months in the supplementary statement first time the applicant was named. The allegations of similar nature as levelled against the accused no. 1, were made.

9. The DNA report though says that it does not match as far as

applicant is concerned, however, prima facie it is not sufficient to say that there was no sexual assault committed by the applicant.

10. However, considering the fact that initially the applicant was not named and subsequently, after two months he was named, it creates doubt about the veracity of the prosecution case. Moreover the applicant is in jail from last about one year and further considering the fact that the charge-sheet has already been filed, I am of the opinion that the applicant is entitled for grant of bail.

11. As far as apprehension expressed by the learned APP that if the applicant is released on bail he may pressurise the prosecution witnesses or victim as they are residence of the same village, the same can be addressed by putting some stringent conditions.

ORDER

- (i) Criminal Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.445 of 2023, registered with Police Station Indapur, Pune Rural, for the offences punishable under Sections 376(2)(n), 376(2)(j), 376(3), 376(D) and 34 of the Indian Penal Code and Section 4, 6, 8 and 12 of the POCSO, Act, 2012, on furnishing P.R.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;
- iii) The applicant shall not enter into the territorial jurisdiction of the Police Station Indapur, Pune Rural, till the

conclusion of the trial;

iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 10.00a.m. to 1100 a.m., till the conclusion of the trial except on the date of trial;

v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition if the applicant commenced similar offence;

vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

12. The application is disposed of.

(ANIL S. KILOR, J)