

The State of Maharashtra ... Respondent

Mr. Drupad Patil, for the respondent no. 2.

DATE : 28TH NOVEMBER, 2024.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.73 of 2020, registered with Palghar Railway Police Station, Mumbai Railway, for the offences punishable under Sections 306, 377, 201 r/w 34 of the Indian Penal Code, 1860 (for short, IPC), Sections 3(2)(5) and 6 of the Scheduled Caste and the Scheduled Tribes (prevention of Atrocities Act, 1989) and Sections 4, 5(f), 6, 7, 8, 9(f), 10, 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO' Act).

3. It is the case of the suicide and the reason given for the suicide is that accused person used to sexually assault the deceased. The period of such assault as per the FIR is from 2007 to 2012. The FIR came to be lodged in the year 2020 i.e. after 8 years.

4. Furthermore, having gone through the charge-sheet and the relevant material collected by the IO, during the investigation, it is evident that the deceased left the school where the accused person used to teach, in the year 2014 and thereafter, he committed suicide on 01.04.2016 i.e after about 2 years. There is no complaint about any sexual assault in between 2012 to 2016.

5. Thus, considering the delay in lodging the report and further, the fact that there is no incidence in proximity with the date of suicide, it is doubtful whether Section 306 of IPC would attract in the present matter. Moreover, as the charge-sheet has been filed and further there are no statement of any other students who had taken education along with the deceased, to support, the allegations made in the suicide note that there was sexual harassment to the deceased as well as other students.

6. In the circumstances, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant be released on bail in Crime No.73 of 2020, registered with Palghar Railway Police Station, Mumbai Railway, for the offences

punishable under Sections 306, 377, 201 r/w 34 of the Indian Penal Code, 1860 (for short, IPC), Sections 3(2)(5) and 6 of the Scheduled Caste and the Scheduled Tribes (prevention of Atrocities Act, 1989) and Sections 4, 5(f), 6, 7, 8, 9(f), 10, 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO' Act), on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;

iii) The applicant shall attend the concerned Police Station on 1st day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;

iv) 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;

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

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

The application is disposed of.

(ANIL S. KILOR, J)