

Order below Exh.1 in Criminal Bail Application No. 340/2022

Chetan Ashok Dolas. .. Applicant/
Accused

Vs.

The State of Maharashtra
through Police Inspector,
Upnagar Police Station, Nashik-Road.
(Cr. No.I 34/2022) .. Prosecution

Order below Exh.1.

1. This bail application is filed by the applicant/accused under section **439 of Cr.P.C.** for releasing him on **regular bail** in the aforesaid Crime registered at Upnagar Police Station, Nashik, for the offence punishable under sections 363, 376, 375(a)(b), 377 and 506 of IPC and u/s. 4 and 6 of POCSO Act.

2. According to the prosecution, the FIR was lodged by the mother of the Victim on 13.02.2022 alleging therein that her daughter is 9 years 7 months old girl. On 12.02.2022 around 09.00 pm, the Victim alongwith her father went out for strolling after dinner. Their pet was with them. After some time, her husband returned home and enquired about the whereabouts of the victim. She was not at home. So they searched her at all possible places but she could not be traced. Hence, her husband went to Police Station to lodge the report.

The complainant alongwith her husband and Police again took search of the Victim till 01.30 am. Fortunately, she was traced

near Samrat Garden. On questioning her, she did not tell anything. She was scared and silent and did not utter anything.

On 13.02.2022 during morning hours, Victim went to answer nature's call but she could not go owing to pain in her genitals. The complainant then took her in confidence and it was revealed that accused-uncle had taken her to nearby building, removed her pant and sexually assaulted her. The complainant then approached the police station and lodged report.

Based on her information, crime was registered against the applicant at Upnagar Police Station and he was arrested on 13.02.2022 and since then, he is in judicial custody.

3. The learned counsel Mr. A.C.Pradhan appearing for the applicant/accused has argued that the applicant is innocent and has not committed any offence. He has been implicated in the false owing to inimical terms between them. There is delay in lodging the FIR and no explanation is given by the complainant in that respect. The investigation is over and nothing remains to be seized and as such his further detention is not required. The charge-sheet is also filed. Hence, lastly, the ld. Counsel for applicant prayed that applicant be released on bail.

4. The Investigating Officer has strongly opposed the application by filing say vide Exh.4 on the ground that the offence is serious in nature. If applicant is released on bail, there is every possibility that he may tamper the witnesses and would not obey the terms and conditions. The relatives of the accused has also given threat to the parents of the Victim and one NC is registered against

them to that effect. There is every possibility of tampering with evidence and pressurizing the Victim, if applicant is released on bail. Hence, prayed for rejection of the bail.

The notice was issued to the complainant and she appeared and filed her say at Ex.7 and resisted the application on the ground that if applicant is released on bail, he may pressurize the victim. The applicant is addicted to liquor and his release would endanger the life of the victim. The applicant has also committed same nature of offences prior to this offence. The relatives of applicant are trying to give threats to the parents of Victim for withdrawing the case. On these and other grounds, she, prayed for rejection of the application.

The Id. APP Smt. Sangale has strongly opposed the application on the ground that applicant is habitual to commit similar offences. The offence as alleged, is of serious and heinous nature. Thus, if he is released on bail, he may pressurize the Victim and may tamper with evidence. Hence, prayed for rejection of the application.

5. After hearing both the sides and on perusal of the charge-sheet and more specifically the medical report, it appears that there is evidence of fresh injuries with bruising and tear present at 4”O clock and 6”O clock, swelling at her genitals etc which prima facie confirms the fact that she was sexually assaulted. The victim has specifically named the applicant. There is no reason for a girl of 9 years old to speak lie against the applicant. It is not even the case of the accused that the complainant has filed false case by using her daughter as tool to take revenge from the accused. No animosity between the parties is pointed out by the applicant.

4. Cri.B.A.No.340/22-Order-Ex.1

There is no reason to disbelieve the Victim at this stage. The offence is serious in nature. The punishment prescribed for the offence is life. The victim is 9 years and 7 months old girl. Considering the nature of offence and the manner in which it was committed, I am not inclined to grant the application. Hence, following order.

Order

Application stands rejected.

(Smt. S.S. Nair)

Date : 08.04.2022.

Addl. Sessions Judge-4, Nashik.