

CRI.B.A. No.1207/17**Order Below Ex.1.**

1] The applicant has moved this court under Section 438 of The Code of Criminal Procedure of the offences punishable under Sections 3,4,11,12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 376,328 the Indian Penal Code. It is alleged that on 07.04.2017 the victim girl aged about 17 years filed a complaint against the present applicant alleging that when she was in 9th std. in the year-2012, she attended dance competition arranged by the present applicant and his wife. Then in the month of July-2015 the applicant send a friend request on face-book again and they were sending messages to each other.

2] It is further alleged that in August-2015, when the victim girl attended the office of applicant, the applicant offered her a coffee and after drinking coffee, she had giddiness and became unconscious. When she regained her consciousness, she realized that applicant committed sexual act and it was paining to her. When she questioned the applicant, the applicant told her that he loved her and ready to perform marriage. The applicant had also a video film of his act. By showing said video film a number of occassions applicant committed sexual act with her and it was continued till January-2016. The complaint was filed to Commissioner of Police. Police directed both the parties not to continue chatting

and sending SMS. FIR came to be lodged.

3] It is contended that the applicant is falsely implicated in this case. There is one side love affair of victim girl with the applicant. However, applicant was not giving any response. The victim girl is not a minor girl she has completed 18 years of her age in July-2015 itself. There was exchange of e-mails which show that no offence has been committed. The victim girl was pressurizing the applicant for giving consent of her one sided lover affair. The applicant has no bad antecedents. He is renowned social worker and businessman. He is permanent resident of Pune, having roots over there. Hence, this is the application.

3] The application is opposed by the State by filing say. If the applicant is released on bail, there is possibility of repeated crime and tampering with the witnesses. The offence is serious one. Investigation is yet to complete. The rejection is thus prayed for.

4] Heard learned counsel for both the sides. Heard the I.O. On perusal of FIR, it seems that on 07.04.2017 the victim girl was aged about 18 years, however, in 2015, she was minor. At this stage, nothing is brought on record to show that the victim girl was major in the year 2015 when initially the acts of sexual assault were committed on her. On perusal of messages, it seems that the victim girl took initiative in sending the messages to the applicant, however, since she is a minor, there is no question of any consent. The reliance is placed on one

affidavit sworn in by the victim girl on 28.11.2016 in which her age was 18 years. So, considering this document also in 2015 she was minor.

5] The learned APP has placed reliance on the computer details of the Hotel Novatel in Mumbai. On perusal of said document, it seems that the applicant and the victim girl resided in the Hotel for one day. So, considering all the above aspects, I find that the offence is no doubt serious one but heinous one also. The girl is a minor. The medical evidence supports the case of prosecution. Considering all the above aspects, I am not satisfied to give protection to the applicant under section 438 of Cr.P.C. With this, following order is passed-

ORDER

The application stands rejected.

Pune.

(Mangala J. Dhote)

Date – 02.05.2017

Additional Sessions Judge, Pune.

“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno - S.V.Thakar,

Court Name - Mangala J Dhote, Additional Sessions Judge,
Pune.

Date of order - 02.05.2017

Order signed by P.O. - 02.05.2017

Order uploaded on - 06.05.2017

