

CRI.Bail Appln.no.767/17**Order Below Ex.1.**

1] The applicant has moved this court under Section 439 of The Code of Criminal Procedure of the offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 376 and 511 of the Indian Penal Code. It is alleged that the applicant who resides in the same locality entered into the house of victim girl aged about 4 years when she was alone in the house. The applicant closed the door, removed the underwear of victim girl. He also removed the chain of his pant and touched his hand to her private part. The offence has therefore, been registered against the applicant on the basis of complaint lodged by the mother of the victim girl after two days of the incident. FIR thus, came to be lodged against the applicant.

2] It is contended that the applicant has been falsely implicated in this case. The offence of rape is not made out. No custodial interrogation is necessary. There are no bad antecedents against the applicant. 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. It is submitted that the applicant by removing chain of his underwear and the underwear of victim girl touched her private part by closing the door. The offence is serious. It is submitted that if the applicant is released on bail, there is possibility of repeated crime and tampering with the witnesses. Investigation is yet to complete. The rejection is thus prayed for.

4] Heard learned counsel for both the sides. On perusal of

statement of the complainant, it seems that victim girl told about the incident on the next day however, on the 3rd day, the complaint came to be lodged. It further seems from the statement that victim girl was alone in the house, however, it is nowhere mentioned that why the victim girl aged about 4 years only was kept alone in the house. So far as offence punishable under section 376 read with section 511 of IPC is concerned, I find that no prima-facie case is made out. At the most, section 354 of IPC is attracted. Applicant is already behind the bar since last 2 months. The investigation is almost complete. Nothing is to be recovered. Moreover, the applicant is the permanent resident of the place mentioned. Hence, in my view the personal custody of applicant is not required for the purpose of investigation. Under the circumstance I am satisfied to enlarge the accused on bail. With this, I proceed to pass the following order -

ORDER

- 1] The application is allowed.
- 2] The applicant Chetan Bhagwan Pakhare be released on executing P. R. bond of Rs. 15,000/-, with one surety in the like amount.
- 3] The applicant shall supply documentary evidence of his permanent address and shall file affidavit in support thereof.
- 4] The applicant shall not tamper with the prosecution witnesses in any manner.
- 5] The applicant shall report to the concerned police on every Monday between 4.00 p.m. to 5.00 p.m. till filing of the charge-sheet.

Pune.
Date – 15.04.2017

(Mangala J. Dhote)
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 - 15.04.2017

Order signed by P.O. - 15.04.2017

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