

ORDER BELOW EXH.1

1] This is an application for bail filed by the applicant u/s. 439 of Code of Criminal Procedure in connection with CR No. 95/2023 registered with Koregaon Park police station for the offences punishable under Sections 376, 376(2)(n) of the Indian Penal Code and under Sections 4,6,8,12 of the Protection of Children from Sexual Offences Act. [Hereinafter the Indian Penal Code referred to as “IPC” and the Protection of Children from Sexual Offences Act referred to as “POCSO Act” for the sake of brevity.]

2] The prosecution has filed say and opposed this bail application. The informant has filed say and resisted this application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and the Charge-sheet.

4] In short, the case of the prosecution that the victim aged 14 years and 8 months old had lodged complaint against three accused on 05.06.2023 vide C.R. no. 177/2023, registered with Mundhawa Police Station under Section 363, 354, 323 r/w 34 of the I.P.C. and under Section 8,9 of the POCSO Act. On 10.06.2023, in the said crime, the victim was sent for her medical examination and during her medical examination, it is revealed that the victim was pregnant. The victim gave statement before PSI Ashwini Bhosale of Mundhawa Police Station and she disclosed that she got acquainted with Rutuja Amit Gunji and she became friend of the victim. The victim used to go

to meet her friend Rutuja at PMC building, Bhadari Vasti, Koregaon Park, Pune, where she got acquainted with the brother of Rutuja i.e. the present applicant. They developed love relationship.

5] In the month of March-2023, when the victim had been in the house of the applicant, no one was present in his house and he established non consensual physical relations with the victim. In the month of May-2023, the applicant called the victim by giving her phone call at railway quarters no. 214-B, Panchashil Nagar, Ghorpadi gaon and established physical relations with the victim.

6] After knowing about the incidents, the father of the victim has lodged a report against the present applicant on 10.06.2023, by making allegations against him that in between March-2023 to May-2023, the applicant established non consensual sexual intercourse with the victim in his house at Koregaon Park, Pune and at railway quarters no. 214-B, Panchashil Nagar, Ghorpadi gaon, Pune and made her pregnant.

7] The statement of the victim recorded on 10.06.2023. The victim has reiterated the incidents committed by the applicant with her and she has disclosed her love affair with the applicant. The victim's medical examination has been conducted by the doctor on 10.06.2023. She narrated the history to the doctor and disclosed her love relationship with the applicant. While narrating the history, she has stated the incidents of penetrative sexual assault by saying the sexual intercourse committed by the applicant as non consensual. It is

to be noted that the victim had filed complaint earlier against three accused and at the time of medical examination, her pregnancy was revealed and then only she disclosed her love relationship with the present applicant. The victim was enough maturity because she kept her love relationship secret from her parents and continued to meet the applicant and to chat with him and to snap photographs with the applicant.

8] It reveals from the documents tendered by the Ld. Advocate for the applicant i.e. the photographs and chatting of the applicant and the victim on social media account, prima facie crystal discloses that the victim had become very close to the applicant and it further discloses from the case of the prosecution also that the victim and the applicant were having love relationship. Further, it seems that the victim was 14 years and 8 months old, but she with understanding used to talk to the applicant and had become very close to him.

9] Ld. Advocate for the applicant has placed his reliance in -

i] Vishal s/o Omprakash Verma Vs. The State of Maharashtra reported in 2021 ALL MR(Cri) 187.

ii] Ankush Subhash @ Nannu Bhisade Vs. The State of Maharashtra reported in 2020 ALL MR (Cri) 2921,

iii] Amit Kumar Vs. State of Himachal Pradesh reported in 2018 ALL MR(Cri) Journal 199,

iv] Anirudha Yadav Vs. State of Maharashtra reported in 2020 CLU 500,

v] Satyam Ramchandra Fulore Vs. The State of Maharashtra reported in 2015 ALL MR (Cri) 2785,

vi] Sunil Mahadev Patil Vs. The State of Maharashtra reported in 2016 ALL MR(Cri) 1712,

vii] S. Varadrajan Vs. State of Madras reported in AIR 1965 Supreme Court 942,

viii] Milind Rajendra Pawar Vs. The State of Maharashtra in Criminal Application no. 73 of 2019 decided on 30.01.2019.

10] It seems that the investigation is complete and the charge-sheet has been filed. Certainly trial will take its own time for disposal in accordance with law. The applicant is only 19 years old.

11] Thus, in the facts and circumstances, considering love relationship of the applicant and the victim and as there are no criminal antecedents against the applicant and no allegations of any violent act against the applicant and at the same time, in view of photographs on record, it is just and proper to release the applicant on bail. Therefore, application is to be allowed by imposing stringent conditions upon the applicant. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Raj Amit Gunji** shall be released on bail upon furnishing P.R. bond in the sum of Rs.50,000/- with surety in the like amount.
- 3] The applicant shall attend concerned police station on every 1st Monday of the month between 10.00 am to 11.00 am till conclusion of the trial.

- 4] The applicant shall not tamper with the prosecution evidence in any manner. He shall not pressurize the victim, informant and family members and witnesses and shall not indulge in any offence.
- 5] The applicant shall not contact with the victim and family members, in any manner.
- 6] The applicant shall not confront to the victim and not to enter in the area where the victim is residing and not to enter within the jurisdiction of Koregon Park Police Station.
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave India without prior permission of the Investigating Officer.
- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.

Date – 05.09.2023.

(S.P. Ponkshe)

Addl. 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	- Sau.S.V.Thakar (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 05.09.2023
Order dictated on	- 05.09.2023
Order transcribed on	- 05.09.2023
Order signed by P.O.	- 05.09.2023
Uploaded on	- 06.09.2023