

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. 460/2023 registered with Lonikand police station for the offences punishable under Sections 363, 376 r/w 34 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 police papers.

4] The father of the victim has lodged a report against the unknown under section 363 of the IPC on 10.06.2023. The victim is 15 years and 10 months old. The informant is doing job of security guard. On 11.06.2023, the informant saw the status of the boy from his relations i.e. the applicant and saw that the applicant had kept status while taking meal together with the victim. On 09.06.2023 at around 10:00 pm., the applicant had come in the house of neighbour whose daughter is classmate of the victim. At that time, the victim had been gone to the house of neighbour and the victim and the applicant had taken dinner in one dish and it was told by the

neighbours daughter to the informant. The applicant is son of brother-in-law of the sister and sister in law of the informant. The victim got acquainted with the applicant when she was taking education. Therefore, the informant made inquiry with the mother of the applicant, after sometimes the maternal uncle of the applicant came in the house of the brother of the informant and told that he would bring the victim. Therefore, the informant suspected on the applicant that he kidnapped the victim.

5] The statement of the victim discloses that the applicant is distinct relative and she got acquainted with him before 2 years. On 10.06.2023, she left her house and roam with the applicant and they went to Indapur, after knowing that uncle of the victim searching them. On 11.06.2023 at 02:30 am. they reached to Swargate, Pune and then they went to Pune railway station. Thereafter, they went by train to Miraj. Next day they took the room on rent and he established forcible sexual intercourse with the victim by giving slap to her. Then on 12.06.2023 they both came to Pune and then they went to Indapur. The maternal uncle of the applicant told them that, they should not behave like that on that day. They stayed in the house of the maternal uncle of the applicant and next day she appeared Indapur police station.

6] The victim was examined by the doctor on 14.06.2023 and disclosed non-consensual sexual intercourse by the applicant upon her. It appears from the police papers prima facie that the applicant is 17 years 8 month 27 days old. Thus, he is CCL. It prima facie reveals

that the victim is of the understanding age and she herself left the house without informing anyone and accompanied the applicant and roamed with him.

7] The Ld. Advocate for accused has placed his reliance in-

i] Vishal Prakash Kharade Vs. The State of Maharashtra, in Criminal Bail application no. 758/20222, Hon'ble Bombay High Court Nagpur Bench.

ii] Sujit Shriram Rathod Vs. State of Maharashtra, reported in DLD (Cri)-2022-1572.

8] No doubt, it is prima facie case of love affair of a boy and a girl. The victim had attained age of understanding. The victim is of understanding age and having knowledge of consequences of her act. The applicant is prima facie only 17 years 8 month old. The almost investigation has been completed. He is in the age is to learn and to take education.

9] Thus, in the facts and circumstances, as there are no criminal antecedents against the applicant, it is just and proper to release the applicant on bail. The conduct of the applicant and the victim is necessary to consider at this stage. 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 **Rohit Pandurang Kamble** 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 Monday and Friday between 10.00 am to 11.00 am till filing of the charge-sheet.
- 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 shall not enter into the jurisdiction of Lonikand 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.
- 11] The I.O. to take necessary steps in view of his age, after the verification.

Pune.

Date – 28.07.2023.

(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	- Nitin M. Shinde (Steno G-3)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 28.07.2023
Order dictated on	- 28.07.2023
Order transcribed on	- 28.07.2023
Order signed by P.O.	- 29.07.2023
Uploaded on	- 01.08.2023