

**ORDER BELOW EXH.1**

1] This application has been filed by the applicant for seeking pre-arrest bail u/s. 438 of Code of Criminal Procedure in connection with CR No. 171/2023 registered with Khadki police station for the offences p/u/s. 354-D, 323, 504, 506 of the Indian Penal Code and p/u/s. 8,12 of the Protection of Children from Sexual Offences Act. [Hereinafter Indian Penal Code referred to as “IPC” and 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 intervener i.e. the original complainant appeared through Advocate and filed photos, Whatsapp chat between the applicant and the informant, letter by the complainant to the President of AWWA Southern Command, Pune. Perused material in the Pen-drive tendered by the original complainant.

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. Perused written notes of argument tendered by intervener. Perused documents tendered by the applicant i.e. copy of Whatapp call records of the applicant showing calls made by the original complainant to him, copy of S.S.C. letter of the elder daughter of the complainant in the year 2021, Whatsapp messages sent by the elder daughter to the applicant showing cordial relations.

4] It is the case of the prosecution that the complainant is the

wife of the present applicant and teacher in Army Public School, Dighi. She has lodged a report against the applicant, who is Lieutenant Colonel in Indian Army. The complainant has made allegations against the applicant that in September-2018, at Club Mahindra Resort, Thawa, Jaisalmer, Rajasthan, the applicant touched the breast of elder daughter of the complainant (victim no.1) inappropriately. Thereafter, again in November-2018, at Army Camp, Jodhpur, the applicant touched the breast of elder daughter (victim no.1) of the complainant. Further allegations against the applicant that in September-2020, when the applicant was staying along with younger daughter and son, the applicant went in the room of the children and inappropriately touched the breast, thigh and private part of younger daughter (victim no.2) of the complainant and the said incident disclosed by victim no.2 on 15.04.2023. Further, son of the complainant disclosed to the complainant on 27.02.2021 that victim no.2 told him regarding keeping mobile on the study table of elder daughter (victim no.1) by keeping open camera on and concealing same in Chaddar. The complainant asked about the same to victim no.2 and she disclosed her that the applicant told her to take bath in the guest wash room and change the clothes in the room of victim no.1 and at that time, the applicant had kept his mobile 'camera on' in Chaddar. According to the complainant, she had seen the said video in mobile phone of the applicant and at that time, he apologized her.

5] Further, in August-2021, when they were in Orissa, victim no.1 by giving phone call to the complainant informed that victim

no.2 was crying and the applicant misbehaved with her. When the complainant went to home, victim no.2 disclosed that when she had been slept on two chairs of dinning table, the applicant came and touched her 'main point'. Further, there are allegations against the applicant that in September-2021, the applicant transferred to Pune and they came to stay at 31-B, Engine House Road, near Ammunition Factory, Khadki, Pune and when the daughters used to take bath, always the applicant used to roam nearby the bathroom. In September-2022, when the complainant was giving bath to victim no.2, she saw the applicant was peeping inside the bathroom from the window of the bathroom. She has further made allegations against the applicant that when she asked about the same to the applicant, he abused the complainant and threatened to kill her and told her that her daughters will be defamed. Thus, accordingly, the complainant has lodged the report against the applicant.

6] The statement of victim no.1 discloses the incident of August-2018 and November-2018 and she has stated that the applicant was touching her and her sister inappropriately and badly and they never felt safe with the applicant. Further, she has stated that the applicant who is step father, used to beat victim nos.1 and 2 and making quarrel repeatedly with their mother.

7] The statement of victim no.2 discloses that she has reiterated the incident of keeping mobile 'camera on' by concealing in Chaddar. Therefore, she changed her clothes at the side of the room and she told about the same to her brother. Further, she has stated the

incident of August-2021 in respect of touch by the applicant to her private part.

8] Admittedly, the complainant is divorcee and she have victim no.1 and 2 from her earlier marriage to Shivesh Gautam. After divorce in the year 2018, she married to the present applicant on 27.04.2018. Applicant's marriage with the complainant is also second marriage. The applicant have son from his earlier marriage.

9] It seems prima facie from all the documents that there are disputes between the applicant and the complainant. Now, the allegations against the applicant are in respect of commission sexual assault by him upon two daughters. It appears further that the allegations of commission of sexual assault allegedly committed by the applicant in September-2018, November-2018 and then disclosure to the complainant from victim no.2 in respect of commission of sexual assault by the applicant upon her was on 15.04.2023 before activists Pooja Satav from Foundation for Child Protection, Muskan. Further, allegedly son of the applicant Rony disclosed the incident occurred in September-2020 to the complainant on 27.02.2021. Further, there are allegations in respect of the incidents in August-2021, September-2021 and September-2022.

10] It appears that even the complainant knew about the incidents of September-2018 and November-2018 and further incidents in August-2021, September-2021 and September-2022, the complainant did not raise voice though she is Teaher in the Army

School. Further, the complainant had kept mum even knowing about Muskan foundation Sanstha in January-2023 and informing incident to Pooja Satav of Muskan Sanstha on 15.04.2023 and lodged report on 02.06.2023.

11] That apart, in view of the report, the police have issued notice to the applicant under Section 41(a)(1) of Cr.P.C. and it appears that in view of the said notice, the applicant appeared before the police and it seems that the police have completed the investigation of the crime and filed charge-sheet in the Court against the applicant. It appears further that the investigating officer has recovered two mobile phones from the applicant and seized it.

12] Further, it appears prima facie that after lodging a report, there are chats and phone calls between the applicant and the complainant. Further, prima facie it seems that after the alleged incidents, there were chats between the applicant and the victim. It appears that there are allegations and counter allegations against the applicant and the complainant also.

13] In this background, in view of nature of allegations and already investigation is completed, custodial investigation of the applicant is not required. Hence, it is just to grant pre-arrest bail to the applicant by imposing conditions upon him. With this I proceed to pass following order.

**ORDER**

1] The application is allowed.

- 2] Ad interim protection granted to the applicant is hereby confirmed.
- 3] In the event of arrest of the applicant Runit Kanwar Ahluwalia, in connection with C.R. no. 171/2023, registered with Khadki police station for the offences p/u/s. 354-D, 323, 504, 506 of the Indian Penal Code and p/u/s. 8,12 of the Protection of Children from Sexual Offences Act, be released on executing P.R.bond of Rs.50,000/- with one surety in the like amount.
- 4] The applicant shall attend concerned police station on every 1<sup>st</sup> Sunday of the month between 11.00 a.m to 2.00 p.m. till conclusion of the trial.
- 5] The applicant shall not tamper the prosecution evidence in any manner.
- 6] The applicant shall cooperate investigating machinery.
- 7] The applicant shall not harass, threat and pressurize first informant and witnesses.
- 8] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.

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.

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