

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. 466/2023 registered with Wanawadi police station for the offences punishable under Sections 376, 376(2)(n), 376(3) of the Indian Penal Code and under Sections 4, 5(j)(2)(l), 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, victim and victim’s father have filed say and they have given no objection for releasing the applicant on bail.

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 mother of the victim has lodged a report against the applicant . On 19.09.2023, the informant had taken the victim to their regular hospital I.e Birajdar Hospital, B.T. Kawade Road, Ghorpadi, Pune and doctor found that the pains of the victim were delivery pains and the victim delivered girl child. The informant was shocked and she asked about the same to the victim, who is her daughter aged 14 years. The victim disclosed that real brother of the informant, who was residing in their house since last one year repeatedly established non consensual physical relations with her. Her

menstrual cycle was not regular and she did not know that she was pregnant. Further, the victim was having good health and therefore, the informant did not know that the victim was pregnant. Then doctor informed to the police after delivery of the victim and police came there. The victim told the name of the applicant as father of that baby. Accordingly, on the same day, the mother of the victim has lodged a report against the applicant.

5] The statement of the victim was recorded on 26.09.2023. She has reiterated the incident committed by the applicant, who is her real maternal uncle. It seems that for DNA report samples have been sent to FSL.

6] It seems from the medical papers that the victim had completed her 8 months pregnancy and delivered baby. The mother of the victim who has lodged the report came to know about the pregnancy of the victim on the same day when the victim delivered baby is creating doubt. Further, the applicant is real brother of the informant and maternal uncle of the victim. No doubt, the victim was child when the applicant has established physical relations with the victim. It seems that the victim has never raised alarm against her maternal uncle, when she was allegedly sexually abused by her maternal uncle and that too when he was residing in their house. This conduct of the victim and the conduct of her mother shows mute consent. That apart, consent of the child is immaterial, but considering the age of the applicant 24 years and no objection given by the informant, it reveals that the victim and applicant were having

love affair and therefore, it is just and proper to release the applicant on bail, by imposing stringent conditions upon him. Therefore, application is to be allowed. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Ishwar Bhanudas Surywanshi** 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 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 submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 6] The applicant shall not leave India without prior permission of the Investigating Officer.
- 7] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 8] Bail application stands disposed of accordingly.

Pune.
Date – 27/10/2023.

(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	- Smt. S.V. Thakar (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 27.10.2023
Order dictated on	- 27.20.2023
Order transcribed on	- 30.10.2023
Order signed by P.O.	- 30.10.2023
Uploaded on	- 30.10.2023