

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and APP for the State. Perused reply filed by original complainant.

2] This is first bail application filed under section 439 of Cr.P.C. by applicant in respect of his arrest in C.R. no. 351/18 registered at Kondhwa Police Station for the offence punishable under section 376(2)(i)(n),328,336,366,366A of the Indian Penal Code and under section 4,8,12 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim lodged report of her missing. During investigation and after recording statement of victim, it revealed that present applicant is her friend. She and applicant went to the house of other accused who is friend of applicant. There was one girl in the house of other accused and she was friend of other accused. Since 19.06.2018 till 07.07.2018 victim was with applicant and from time to time applicant committed forcible sexual intercourse with her. He abused and beat her and forcibly gave her tablet, thereafter, she felt fainted and slept. On next day she found there was blood to her nicker. Thereafter also by giving tablet and by beating her during sleep accused committed forcible sexual intercourse with her . There was bleeding from her private part. Act was repeated.

3] According to applicant he is falsely implicated in this matter. Victim voluntarily came with him as there is love affair between him and victim. Her family members opposed relationship and pressurized victim to give statement before police. Applicant belongs to respectable family . He is resident of Khed, Dist-Pune and has no criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] APP and I.O. objected this application on the ground that investigation is in progress. Applicant did not cooperate during investigation. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. So, they prayed to reject the application.

5] Allegations against the applicant are serious. From statement of victim role attributed to applicant can be gathered. As per statement of victim accused took her in the house of other accused and by giving tablet he forcibly committed sexual intercourse with her from time to time. Act was repeated by beating and abusing her. Medical papers of victim shows similar history and there is evidence of vaginal penetration. Advocate of applicant tried to show that it is case of love affair and victim herself went with applicant. As per police papers age of victim is 14 years and her birth date is 04.02.2014. Therefore, in view of legal position her consent is immaterial.

6] Moreover, investigation in this matter is at initial stage and there is possibility of tampering prosecution evidence by giving threat and pressure to victim and witnesses. Investigation in this matter is in progress. Hence, due to this reason and gravity of the offence, it is not proper to release applicant on bail and application deserves to be rejected. Hence, following order is passed -

ORDER

The application is rejected.

Pune.
Date – 23.11.2018.

(R.V.Adone)
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	- S.V.Thakar,
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 23.11.2018
Order signed by P.O.	- 23.11.2018
Order uploaded on	- 23.11.2018