

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. 209/2023 registered with Vishrambaug police station for the offences p/u/s. 8 and 12 of the Protection of Children from Sexual Offences Act. [Hereinafter 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.

3] Heard Ld. Advocate for the applicant and Spl. P.P. for the State. Perused application, say filed by the prosecution and police papers. Perused written notes of arguments tendered by the applicant.

4] It reveals from the written arguments tendered by the Advocaes for the applicant that the applicant was wrestling teacher at the organization and provided wrestling training during the Covid-19 period with parents consent. The students were sent for wrestling activities by their parents of their own volition, recognizing the physical nature of the sport. Physical contact is inherent to wrestling and if such contact occurred during teaching, it cannot be seen as harassment, if the intent was not to harm or distress the students. The FIR lacks merit. The report has been lodged due to complainant’s rivalry with the applicant. The present complainant was co-worker of the applicant and witnessed rapid growth of the applicant in the organization. Further, there is delay in lodging a report and prayed for allowing the application.

5] Ld. Spl. P.P. has argued that there are allegations of

commission of sexual assault by the applicant upon the students. The students were calling the applicant as Samir Dada. The applicant is absconded. The conduct of the applicant is necessary to consider. Hence, prayed for rejection of the application.

6] During reply, it is argued by Ld. Advocate for the applicant that there was lock down on 01.06.2020 and therefore, the allegations were not possible against the applicant. I would like to mention here that in written submissions vide Exh.7 in paragraph no.3, it is specifically mentioned that the applicant provided wrestling training during the Covid-19 period with parents consent. Therefore, the submissions during the reply are not acceptable.

7] The FIR indicates that the complainant was working as a Head of school under youth department since 2021. From the year 2010 to 2016, he was working as a worker of youth department at Dnyanprabodhini Prashala. There are different Dal in the school and 5 to 6 persons appointed to teach games to the students. The applicant is one of the teacher for teaching the students the games in 5th to 7th standard. After September-2022, he left the job of the school Dal as he wanted to go for education at Waranasi. One Agasta Pathak from 9th standard told to Swaraj Thorat that there was trip of Dnyanprabodhini Prashala and during the trip, six boys studying in 9th standard, all aged 14 to 15 years were talking and Agasta Pathak came to know that present applicant misbehaved with the students while teaching in Dal. When Swaraj Thorat had talked with the said boys and the boys gave the incidents in writing. The complainant perused the said writing of the boys and came to know that the applicant was wrestling trainer at Kunjir Talim, Kumthekar Road,

Pune and he under pretext of teaching wrestling told the boys to touch each others private part and the applicant also touching private parts of the boys. The applicant was directing the boys to bath each other and the applicant was enjoying the same. The applicant once went to the house of one victim boy "PY" (first letters of first name and last name) and touched his private part inappropriately.

8] It appears that there are statements of 10 victim boys and prima facie it appears that there are allegations of commission of sexual assault by the applicant upon the victims. Ld. Advocate for the applicant has placed his reliance in -

- i] Shanta Kumar Vs. Council of Scientific and Industrial Research (CSIR) and others reported in 2017 SCC OnLine Del 11388,*
- ii] Nagesh Pandurang Mandve Vs. State of Maharashtra reported in 2019 SCC OnLine Bom 4521.*

9] The nature of allegations are serious. The allegations are in respect of commission of sexual assault and sexual harassment to the victims. The victims are near about 10 in numbers. In the facts and circumstances, thorough interrogation is warranted. Therefore, it is not fit case to grant pre-arrest bail to the applicant. Therefore, application is to be rejected. With this I proceed to pass following order.

ORDER

- 1] The application is rejected.
- 2] 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	- 27.10.2023
Order transcribed on	- 27.10.2023
Order signed by P.O.	- 30.10.2023
Uploaded on	- 30.10.2023