

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. 614/2023 registered with Bharti Vidyapeet police station for the offences p/u/s. 376, 376(2)(h), 376(2)(n), 376(2)(f), 376(2)(f), 506 of the Indian Penal Code and p/u/s. 4(1), 5(l), (5) n, 6(1), 8, 9(n) & 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 original complainant has filed her say and she has given no objection for releasing the applicant on bail. It is contended that the victim married to the present applicant after completion of her age of 18 years. The applicant is her relative. The victim has become pregnant of a four months and date of birth of the victim on 01.01.2005 and she has prayed for allowing the 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] It is argued by Ld. Advocate for the applicant that the victim married to the applicant. Initially, FIR was registered at Beed police station vide 0 number and transferred to Bharti Vidhayapeet police station. The victim married to the applicant. Custodial

interrogation is not necessary. Hence, prayed for allowing the application.

5] The Ld. Spl. P.P. has submitted that there is difference in the date of the birth of the victim. The applicant is already married person and the victim's maternal aunt's husband. The applicant is in dominating position for DNA and medical test. Custody of the applicant is necessary. The nature of the offence is serious. Hence, prayed for rejection of this application.

6] The Investigating officer was present and he has argued that the victim was child and pregnant. The applicant is absconding and his phone is switched off. The applicant is married person and the victim is pregnant. Hence, strongly opposed this bail application.

7] The FIR indicates that on 21.09.2023, the mother of the victim has lodged a report. The victim was staying with younger sister of the informant Ashvini Jadhav at Shaninagar Katraj, Pune for beauty parlour course. 15 days before, the lodging report, the victim came to the informant's house at Talkhed, Tq. Majalgaon, Dist. Beed, as she was not feeling well. On 16.09.2023 the informant took the victim to the doctor and it was revealed that the victim was five months pregnant. The victim told that when she had been in the house of her maternal aunt since June-2022, husband of her maternal aunt i.e. the applicant behaved with her properly for two months and thereafter, he kept evil eye on her. In August-2022, when her maternal aunt was not present in the house, the applicant forcibly

established physical relations with her and threatened her, not to disclosed the incident to anyone. Thereafter, also whenever maternal aunt used to go outside, the applicant has established physical relations with her and she became pregnant. Thereafter, on 18.09.2023, the informant had taken the victim to the government hospital at Beed and doctor reported to the police on 21.09.2023, as the victim was five months pregnant. The police came there and the informant has lodged a report against the applicant.

8] The statement of the informant and her affidavit, prima facie discloses that the informant and her relatives performed the marriage of the victim with the applicant, though, he is married. The reason mentioned by the informant that her sister, who is wife of the applicant have mental problem and the applicant have two children and therefore, to look after the children, the informant performed the marriage of the victim with the applicant. Her brother was also present for marriage. The victim became pregnant and doctor had taken doubt that the victim was minor and informed to the police.

9] Considering prima facie, the allegations made by the victim and the contents of the FIR, it seems that the allegations against the applicant are very serious. Even, he is married person and close relative of the victim. It prima facie appears that when the victim was in the house of the applicant, for her course of beauty parlour, the applicant has committed rape of the victim repeatedly. The investigation is in progress. The applicant was absconding and it seems that his mobile phone is switched off. The applicant is not

traceable to the police and accordingly, there are station entries made by the police. The victim has become pregnant. The applicant is already married person and having two children.

10] Considering the above facts, and the applicant is husband of maternal aunt of the victim, custodial interrogation is very much necessary for DNA and medical examination. Further, the conduct of the applicant, discloses that he is absconding. Therefore, in view of serious nature of the allegations, 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.

Pune.
Date – 21.10.2023.

(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	- Nitin M. Shinde, (Steno G-3)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 21.10.2023
Order dictated on	- 21.10.2023
Order signed by P.O.	- 23.10.2023
Uploaded on	- 23.10.2023