

ORDER BELOW EXH.1

1- Perused application and say. Heard Advocate for applicant and APP for the State.

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. 263/2018 registered at Sinhagad Police Station for the offence punishable under section 376(2) (i)(n), 363, 366(A) of the Indian Penal Code and under sections 5(j) (2), 5(l), 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim aged about 17 years lodged report of her missing and against applicant. During investigation and after recording statement of victim it revealed that she was acquainted with applicant and there was love affair between them since 2015. They were meeting each other. In November 2017 they both ran away. They learnt about lodging of report so applicant left her at Taravade Vasti. On 08.06.2018 they met at Narhe and went to Mohammadwadi, Laxmi Park and resided together. During that period they kept sexual relationship. Victim became pregnant.

3- According to applicant he is falsely implicated in this matter. It is a case of love affair. Investigation is practically over. Applicant is doing labour work and pursuing his career. He is only 23 years old and residing at Mohammadwadi, Hadapsar, Pune. He 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 committed repeated sexual intercourse with victim under pretext of marriage as a consequent of it victim became pregnant. 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. Applicant is sufficiently interrogated. From statement of victim it revealed that due to love affair victim and applicant were meeting each other, since 08.06.2018 they were residing together and kept sexual relationship. Victim is at present 17 years old, applicant is 23 years old. Victim has attained age of sufficient maturity and knows the consequences of act.

6- In this context it is necessary to rely on authority cited in ***Sunil Mahadev Patil Vs. State of Maharashtra reported in 2016 All MR (Cri.) 1712***, in which it is observed that if statement of prosecutrix and witnesses shows that they were in love relationship with each other they eloped and went to temple and performed marriage, they started residing together in the house of relative then there are mitigating circumstances. Moreover, it is observed that factor i.e. age of prosecutrix, whether act is violent, whether there are antecedents or not, whether offender is capable of repeating the act or not, whether there is likelihood of threats or intimidation if at all the boy is released, whether chance of tampering with material witnesses and age of the applicant and his employment and plan, stabilize and secure his future are to be taken into consideration while deciding bail application, when boy and minor girl are in love with each other.

7- Ratio laid down in above cited ruling is noted. From statement of victim prima-facie it revealed that due to love affair they were living together. Her statement also shows that they kept sexual relationship. Medical report of victim shows history of love relationship and consensual sexual vaginal intercourse. Victim became pregnant but she never complained after first incident. These are mitigating

circumstances. Moreover, investigation is practically over and personal custody of applicant is not required. Applicant is doing labour work He is resident of Mohammadwadi, Hadapsar, Pune. He has no criminal antecedents. No purpose would serve by keeping the applicant behind bar for unknown period. Due to all above reasons application deserves to be allowed with following order -

ORDER

- 1 - The application is allowed.
- 2- The applicant Akshay Prakash Mandale be released on executing P.R. bond of Rs.30,000/- with one or two solvent sureties in the like amount.
- 3- The applicant shall not tamper the prosecution witnesses in any manner.
- 4- The applicant shall attend Samarth Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till the charge-sheet is filed.
- 5- The applicant shall not harass, threat and pressurize the victim.
- 6- The applicant shall co-operate investigating machinery as and when required.
- 7- Prior to furnishing surety, the applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.

Pune.

(R.V.Adone)

Date -27.03.2019.

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.Hirve,
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 27.03.2019
Order signed by P.O.	- 28.03.2019
Order uploaded on	- 28.03.2019

CNR NO.
MHPU01-003696-2019

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Cri. Bail Application No.1239/2019