

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and APP for the State. Perused say 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. 219/18 registered at Vishrambaug Police Station for the offence punishable under section 363,376(i) 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 father of victim lodged report of her missing. During investigation and after recording statement of victim, it revealed that she was acquainted with applicant and there was love affair between her and applicant. They were meeting each other. On 07.09.2018 they both went to Shivajinagar ST Stand and then to Nashik Panchawati, resided in lodge, thereafter, they went to Yawatmal, Solapur, Akklkot, Tuljapur and resided in a rented room at Chincholi , MIDC. During their stay in rented room at Solapur, applicant committed forcible sexual intercourse with victim.

3] According to applicant he is falsely implicated in this matter. It is case of love affair. Victim has attained age of sufficient maturity and applicant is ready to marry with her. Her family members opposed relationship and falsely involved him in this matter. Applicant is temporarily resident of Vadgaon Budruk, Pune and permanently resident of Solapur. He has no criminal antecedents and pursuing his career. 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 will pressurize victim and

witnesses. There is possibility of tampering prosecution evidence. There is possibility of absconding of applicant. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From statement of victim role attributed to applicant can be gathered. It revealed that applicant and victim are in love relationship, they resided together at different places. Since beginning victim never complained. She is more than 17 years old and knows the consequences of the act. Applicant is 24 years old. In this context applicant relied 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.

6] Ratio laid down in above cited ruling is noted. From medical report and history, it revealed that due to love affair victim ran away with applicant and she also gave history of multiple times sexual intercourse with her consent. There are no external injuries on her

person. These are mitigating circumstances. Moreover, investigation is practically over. Personal custody of applicant is not required. 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 Akash Maruti Bansode 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 Vishrambaug 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 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.
Date – 21.11.2018.

(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	- 21.11.2018

Order signed by P.O. - 21.11.2018
Order uploaded on - 23.11.2018