

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. 982/18 registered at Hadapsar Police Station for the offence punishable under section 363,376 of the Indian Penal Code and under section 4 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that father of victim lodged report of her missing. After recording statement of victim and during investigation it revealed that victim and applicant are acquainted with each other. Victim attained her 18 years old and according to her they married in a temple and resided in a rented room where applicant committed sexual relations with her and she became pregnant.

3] According to applicant he is falsely implicated in this matter. There is love affair between victim and applicant. They resided together as husband and wife for about one year after marrying each other. Victim never complained since beginning. Her family members opposed relationship and falsely implicated applicant. Applicant is only 22 year old and resident of Haveli, 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. Statement of victim under section 164 of Code of Criminal procedure yet to be recorded. 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 can be gathered that there is love affair between her and applicant and she has attained age of

sufficient maturity.

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.

Ratio laid down in above cited ruling is noted. It has come on record that victim and applicant married in a temple and resided together for about one years, Victim never complained since beginning. These are mitigating circumstances. Investigation is practically over. Victim has attained age of sufficient maturity. Applicant has no criminal antecedents. Applicant is resident of Manjari Budruk, Tal-Haveli, Dist-Pune. 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 Raj Mansing Fasge 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 Hadapsar 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.
Date – 26.10.2018.

(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	- 26.10.2018
Order signed by P.O.	- 29.10.2018
Order uploaded on	- 29.10.2018

