

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. 592/18 registered at Kondhwa Police Station for the offence punishable under sections 323,366,376,504,506 of the Indian Penal Code and under sections 4,6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim lodged report stating that prior to 5 months, victim told her that she missed her menstrual cycle. She was examined and it revealed that she was six months pregnant. Upon inquiry with victim she told nothing. Victim delivered girl child on 23.09.2018 and thereafter, first informant lodged report against unknown person. During investigation and after recording statement of victim it revealed that when she was in 10th std. her friend introduced her with her brother i.e. applicant. Victim was less talking with him. In October-2016 applicant demanded sexual intercourse to victim, abused, beat her and forcibly committed sexual intercourse with her. He then promised to marry with her and repeatedly committed sexual intercourse with her till January-2018. In July 2018 she missed her period and it revealed that she was 7 months pregnant but she did not disclose name of applicant.

3] According to applicant he is falsely implicated in this matter. There is delay of 5 months in lodging report. Since beginning victim never complained of alleged act. Applicant is not concerned with alleged act and pregnancy of victim is out of love affair with someone

else. He is permanently residing at Kothrud, Pune. He is student and 21 years old. 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 will pressurize victim and witnesses. There is possibility of tampering prosecution evidence and there is possibility of absconding of the applicant. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From the statement of victim role attributed to applicant can be gathered. First Information Report itself shows that prior to 5 months first informant got knowledge about the pregnancy of the victim. After delivery of child report is filed. In statement of victim she made allegations against applicant and according to her act of forcible sexual intercourse was committed since October-2016 and it continued till January-2018. Victim never complained after first incident and though act was repeated.

6] Victim was about 15 years old and applicant was about 20 years old at the time of alleged first incident . In that regard Advocate of applicant relied on unreported bail application no.453/18 in Mahesh Sharad Kalekar Vs. State of Maharashtra dated 05.06.2018 in which bail was granted on the ground that victim has attained age of understanding and incident came to light only because she had shown signs of pregnancy.

7] Ratio laid down in above cited ruling is noted and applicable to this case. Considering above mitigating circumstances and as applicant is 21 years old and student, personal custody of applicant

is not required. Investigation is practically over. Applicant is resident of Kohrud, Pune. Applicant 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 Pandurang Tukaram Phale 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 Kondhwa 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 meet the victim and threat and pressurize the victim and shall not enter into vicinity of residence of 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 – 02.11.2018.

(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	- 02.11.2018
Order signed by P.O.	- 03.11.2018
Order uploaded on	- 03.11.2018