

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. 580/17 registered at Nigdi Police Station for the offence punishable under section 363,366,376 read with 34 of the Indian Penal Code and under section 3,4,7,8 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that father of victim lodged report of her missing. During investigation it revealed that applicant induced and kidnapped victim aged about 16 years, kept sexual relations with her due to which she delivered child on 13.09.2018.

3] According to applicant he is falsely implicated in this matter. He is sufficiently interrogated. He is permanently residing at Tal-Jintur, Dist-Parbhani. Previously, police arrested one Pawan Bhaskar Pawar and he was released on bail. Thereafter, present applicant is arrested. There is love affair between applicant and victim. Applicant married with victim . They lived together and victim gave birth to child. Applicant is ready to cohabit with victim. 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. DNA report is yet not obtained. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. There is possibility of absconding of accused and previously he was absconded for about one year. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From statement of first informant role attributed to applicant can be gathered. In statement he stated that he received phone call from victim and she informed that she and applicant were residing together

and she gave birth to a child. Moreover, medical report of victim shows history that she ran away with applicant and they stayed together at various places. They had multiple sexual intercourse. There is no evidence of injury on any part of body of victim .

6] Applicant is 22 years old and victim is 16 years old. Victim has attained age of sufficient maturity and know the consequences of the act. In this regard Advocate of applicant relied on authorities cited in -

i] 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.

ii] ***S. Varad Rajan Vs. State of Madras reported in AIR 1965 SC 942***, in which it is observed that even though word “taking” and “enticing” have two different connotations, yet neither of two expressions contracts the case when girl by her own accord comes out of custody of her guardian.

7] Ratios laid down in above cited ruling are noted. It appears that considering nature of offence investigation is practically over. Personal custody of applicant is not required. Considering medical report and fact that victim left the house with applicant are mitigating circumstances. Victim did not complain till delivery of child and since beginning. Applicant is 22 years

old and doing business. 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 Anil Mohan Rathod 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 Nigdi 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

