

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. 83/2018 registered at Velha Police Station for the offence punishable under Section 376(2)(n) and 506 of the Indian Penal Code and under Section 3, 4, 8, & 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim lodged report stating that victim is aged about 10 years, she is studying in New English School, Vinzar, in 5th standard and she was residing in Rachana Institution Hostel running by one Avinash Ganesh Kulkarni i.e. applicant. In that hostel facility of food, residence and education of poor student was made by applicant. On 09-09-2018, first information received phone call from Pratiksha Borhade who told that victim was heavily beaten. So she went along-with her sister at Vinjar. Upon inquiry victim told that on 08-09-2018, at 6-00 p.m. Kulkarni Baba called her in his room and kissed her at mouth, neck and stomach, removed her clothes and committed sexual intercourse with her. She shouted but he pressed her mouth and threatened her not to disclose this act to anyone otherwise he would kill her. Prior to this, similar type of act was done by him for 2-3 times.

3] According to applicant he is falsely implicated in this matter. He is 62 years old and senior citizen. He is suffering from high Blood pressure and hyper tension. Allegations against him are false. Nothing is recovered at his instance. Investigation is practically over and personal custody of applicant is not required. Meanwhile, charge-sheet is filed. He is temporarily resident of Vinzar, Taluka Velha and permanently residing at Samarth

Vihar Anex Patharli Road, Dombiwali, East, Taluka Kalyan and 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 considering the nature of offence applicant will pressurize victim and witnesses. They are going to file charge-sheet against applicant. There is possibility of tampering prosecution evidence and repeating the act, so they prayed to reject the application.

5] Allegations against the applicant are serious. From statement of first informant and victim role attributed to applicant can be gathered. Victim specifically took name of applicant in medical history and before police and stated that he committed forcible sexual intercourse with her by removing her clothes.

6] Applicant submitted that there are contradictions merely in statement of victim before police and history given to medical officer. In history she told that age of applicant 55 years and told that he was watchman, however in statement before police she stated that Kulkarni Baba committed act of sexual intercourse with her. Victim is only 10 years old. She specifically took name of Kulkarni Baba and in medical history his full name. Moreover, medical report, police papers, including statements supports prosecution case. There is statement of Pratiksha Borhade to whom victim immediately narrated incident. Considering police papers, prima facie involvement of applicant in offence can be gathered.

7] Victim is only ten years old and applicant is 72 years old. Applicant is in influential position over victim. Though charge-sheet is filed there is possibility of tampering prosecution evidence, giving threat and pressure to victim and witnesses. Due to all above reason only filing of charge-sheet is not change in circumstances. Applicant is relying on medical reports to show his illness. However, in view of all above reasons only on that ground it is not proper to release him on bail. Hence, application deserves to be rejected with following order -

ORDER

The application is rejected.

Pune.
Date – 07.12.2018.

(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 - U. S. More
Court Name - Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Judgment - 07-12-2018
Judgment signed by P.O. - 14-12-2018
Judgment uploaded on - 19-12-2018