

ORDER BELOW EXH.1

1] Perused the 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. 447/2018 registered at Chatushrungi Police Station for the offence punishable under sections 363, 376(J), 366(A) and 506 of the Indian Penal Code and under section 3(A), 4, 5(L), 6, 9(L) and 10 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim lodged report of her missing. During investigation, it revealed that applicant induced and kidnapped victim and committed sexual intercourse with her under pretext of marriage.

3] According to applicant he is falsely implicated in this matter. It is case of love affair. Victim is 16 years old and attained age of sufficient maturity. She knows the consequences of the act. Applicant is 20 years old and resident of Wadarwadi, Pune. Applicant has no criminal antecedents. Investigation is practically over. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] A.P.P. and I.O. failed to file say though sufficient opportunity given. APP submitted that police papers are not given though correspondence is made. She submitted that investigation is in progress. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence and witnesses. So, she prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. On the basis of available remand papers, it can be gathered that victim is about 16 years old. Applicant is 20 years old. It is alleged that sexual intercourse was done under pretext of marriage. Victim has attained age of sufficient maturity and knows the consequences of act. In this context, Advocate of applicant relied on authorities cited in

i] 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] Satyam Ramchandra Fulore Vs. State of Maharashtra reported in 2015 All M.R. (Cri.) 2785, in which it is observed that if victim was in love with applicant and no history of sexual or physical assault revealed from the medical examination, victim being 16 years old had attained age of understanding, prima-facie case is made out for grant of bail.

6] Ratios laid down in above cited rulings are noted. It is submitted that charge-sheet is filed after completion of investigation. Therefore personal custody of applicant is not required. Applicant is resident of Wadarwadi Pune and only 20 years old. He has no criminal antecedents. No purpose would serve by keeping applicant behind the bar. He is having responsibility of his family. Due to all above reasons and as applicant is resident of Pune, application deserves to be allowed with following order -

ORDER

- 1] The application is allowed.
- 2] The applicant Vrushkesh Datta Banpatte 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] Applicant shall attend court proceeding regularly on each date.
- 5] The applicant shall not meet victim, shall not threat and pressurize the victim and witnesses.
- 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 – 05/12/2018

Sd/----
(R. V. Adone)
Addl.Sessions Judge, Pune.

I affirm that the contents of this PDF file Order are same word for word as per original Order.

Name of Stenographer	Pranjali Prasad Bokil (Stenographer – Grade-II)
Court Name	R .V. Adone Addl.Sessions Judge, Pune
Date of Order	05.12.2018
Order signed by Presiding Officer on	05.12.2018
Order uploaded on	06.12.2018