

ORDER BELOW EXH.1

1] This is an application for bail filed by the applicant u/s. 439 of Code of Criminal Procedure in connection with CR No. 274/2023 registered with Vishrambaug police station for the offences punishable under Sections 363, 376 of the Indian Penal Code and under Sections 4,8,12 of the Protection of Children from Sexual Offences Act. [Hereinafter the Indian Penal Code referred to as “IPC” and the Protection of Children from Sexual Offences Act referred to as “POCSO Act” for the sake of brevity.]

2] The prosecution has filed say and opposed this bail application. The informant has filed say and resisted this application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and police papers.

4] The father of the victim has lodged a report against the applicant under Section 363 of the I.P.C. against the unknown on 23.12.2023. The victim is 16 years old and she left the house under the pretext of school picnic. The victim was found on 24.12.2023. She returned to home on 1.00 p.m. and the applicant went to his home.

5] The statement of the victim recorded on 30.12.2023 discloses that two to three months before, the applicant and the victim became friends and their friendship converted into love relationship. They met two times and were talking over the phone

calls. She told the applicant that her school picnic was postponed and then the applicant told her they would go to Kasarsai, Tal. Mulshi and would play games. The victim consented for the same and by telling lie, she went along with the applicant on 23.12.2023 after completion of her gathering dance practice. They went to Kasarsai and reached at around 4.00 p.m. They played games to late night and at around 1.00 a.m. they went to sleep in tent and at that time, the applicant forcibly established physical relations with her. She was scared and next day she did not pick up phone of her family members. Her phone was discharged. On 24.12.2023, they both went to their respective home.

6] The victim was examined by the doctor on 25.12.2023. The victim narrated the history to the doctor. She disclosed that they were in love relationship and on 23.12.2023, they went to roam and stayed in a rented tent for the night and came back in the morning. The victim did not disclose to the doctor in respect of physical relations established by the applicant with her. Further, her report discloses multiple old healed hymen tears. Thus, prima facie it seems that the applicant and the victim were having love affair and by consent, they had physical relations.

7] Thus, it is case of love affair of a boy and a girl. The victim has attained age of understanding and she has surrendered to the physical desires of the applicant out of her love and affection. It is mitigating circumstance considering age group of the applicant and the victim. The victim is of understanding age and having knowledge of consequences of her act. The applicant is only 24 years old. The applicant is in his early 20's deserves to get employment, to plan and

stabilize and secure his future.

8] Thus, in the facts and circumstances, considering love relationship of the applicant and the victim and as there are no criminal antecedents against the applicant and no allegations of any violent act against the applicant, it is just and proper to release the applicant on bail. No doubt, minor's consent is immaterial, but conduct of the applicant and the victim is necessary to consider at this stage. Therefore, application is to be allowed by imposing stringent conditions upon the applicant. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Ashish Vasant Kokamkar** shall be released on bail upon furnishing P.R. bond in the sum of Rs.50,000/- with surety in the like amount.
- 3] The applicant shall attend concerned police station on every Monday and Friday between 10.00 am to 11.00 am till filing of the charge-sheet.
- 4] The applicant shall not tamper with the prosecution evidence in any manner. He shall not pressurize the victim, informant and family members and witnesses and shall not indulge in any offence.
- 5] The applicant shall not contact with the victim and family members, in any manner.
- 6] The applicant shall not confront to the victim and not to enter in the area where the victim is residing.
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave India without prior permission of the Investigating Officer.

- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.
Date – 22.01.2024.

(S.P. Ponkshe)
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	- Sau.S.V.Thakar (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 22.01.2024
Order dictated on	- 22.01.2024
Order transcribed on	- 22.01.2024
Order signed by P.O.	- 22.01.2024
Uploaded on	- 23.01.2024