

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and A.P.P. for State.

2] This application is filed under section 438 of Cr.P.C. by applicant in respect of apprehension of his arrest in C.R. no. 562/18 registered at Yerawada Police Station for the offence punishable under section 509 of the Indian Penal Code and under section 11,12 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that victim lodged report stating that she is studying in 9th std. in P.E.S. English School, Yerawada, Pune . Applicant is Head Master of her school. In March-2018 due to village fare, she could not appear for annual examination, therefore, it was decided to conduct their examination in April-2018. On 10.04.2018 she went to school for History paper. In staff room there was dark and she went to open window, applicant was present there and by saying why she was opening window he made gestures towards her by keeping his hand on his lips. She ran away outside the staff room and narrated incident to her classmate. She was frightened and did not disclose anything to her parents. On 14.08.2018 she told her friend that on 13.08.2018 applicant called her in staff room and he was constantly calling her in staff room so she was frightened about him. On 18.08.2018 she narrated about the incident to her father and thereafter report was filed.

3] According to applicant he is falsely implicated in this matter. No offence alleged in report are done by him. In June-2017 interviews were held for post of Head Master, 12 candidates appeared and applicant was selected on merit. Frustrated candidates started harassing applicant and to remove him from post, they made several attempts, victim is like his daughter. He is serving since about 20 years without any stigma. He is reputed in the field of education . He is resident of Vishrantwadi, Pune. He is suffering from B.P. and diabetes. Due to levelling of offence punishable

under section 12 of POCSO Act there is apprehension in his mind about his arrest. He has no criminal antecedents and ready to abide the conditions. He prayed to grant protection under section 438 of Code of Criminal Procedure .

4] A.P.P. and I.O. objected application on the ground that investigation is in progress. Applicant is working as Head Master in the school of victim so applicant will pressurize victim and witnesses. There is possibility of tampering evidence. So they prayed to reject the application .

5] Allegations against applicant are serious. From First Information Report role attributed against applicant can be gathered. Applicant filed on record copies of his office order, bio-data, time table of examination, medical prescription, various certificates in his name etc. In this context he relied on authority cited in ***Joginder Singh Vs. State of Maharashtra reported in 2014(3) Bom.C.R.(Cri.) 91***, in which it is observed that registration of offence against applicant has exposed him to social obloquy and he has been humiliated in society as well as at work place. For person who claimed to be dignified, very registration of offence is sufficiently deterrent factor. Therefore, anticipatory bail was granted when offence punishable under section 354A of Indian Penal Code, section 7 and 8 of POCSO Act were levelled against the applicant.

6] Ratio laid down in above cited ruling is noted. A.P.P. for State submitted that in view of nature of offences, application is not tenable. However, offences punishable under section 11,12 of POCSO Act are levelled against applicant for which punishment is up to three years. Therefore, apprehension in the mind of applicant is reasonable. There is nothing on record to show that applicant has committed breach of interim order. Considering allegations documents showing chart of career of applicant and medical papers, it is proper to grant protection to applicant. About first incident which took place on 10.04.2018 report is filed on 25.08.2018. Considering mitigating circumstances and fact that applicant is permanent

resident of Vishrantwadi, Pune, he has no criminal antecedents. Due to levelling of offence punishable under section 12 of POCSO Act it is proper to grant protection to applicant. Hence, following order is passed -

ORDER

- 1] The application is allowed.
- 2] The order dated 03.09.2018 below Exh.4 is hereby made absolute as follows -
In the event of arrest in Crime no.562/18 registered at Yerawada Police Station, the applicant Sunil Sitaram Shinde be released on executing P.R. bond of Rs.30,000/- with one or two solvent sureties in the like amount.
 - ii] The applicant shall not tamper the prosecution evidence and shall not pressurize victim and other witnesses in any manner.
 - iii] The applicant shall attend Yerawada Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet.
 - iv] The applicant shall not harass, threat and pressurize victim and shall not repeat the offence.
 - v] The applicant shall co-operate investigating machinery as and when required.
 - vi] The applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.
 - vii] Inform to Yerawada Police Station accordingly.

Pune.
Date – 04.10.2018.

(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	- 04.10.2018

Order signed by P.O. - 04.10.2018
Order uploaded on - 06.10.2018