

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. 16/2024 registered with Chandannagar police station for the offences punishable under Sections 376, 354 of the Indian Penal Code and under Sections 4,5(n),5(m),6,8,12 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. Perused chats between the applicant and the informant and photocopy of bus tickets.

4] The mother of the victim, who is wife of the applicant has lodged a report on 10.01.2024. The applicant was working from home since last some years and looking after two daughters. Elder daughter is 4½ years old and younger daughter is one year old. Elder daughter used to sleep along with the applicant in one bedroom and younger daughter used to sleep in another bedroom along with the informant. On 06.01.2024 at around 10.30 p.m., younger daughter came near to the victim to sleep with her and at that time, she gave tight hug to her and expressed that she likes her and moved her hand

on her breast. The informant felt something different and she took the victim in confidence. The victim told her that her father does all the said acts with her and they play Purpur game. Therefore, the informant asked about the said game and she told her that her father used to insert his part of urination in her part of urination at night. The informant suspected regarding behaviour of the applicant and started watching minutely. She observed that the applicant while giving bath to victim, he used to close the door of the bathroom. Therefore, the informant told to open the door to give towel, but he did not open the door. Thereafter, the applicant called the victim to sit on his lap but the victim scared and refused to go near to the applicant and she went near to the informant.

5] The victim was examined by the doctor on 12.01.2024. The informant had given the history to the doctor. It seems that there was no physical injury found and report has been given as, "From the history given by the informant and clinical examination done, the possibility of vaginal and oral penetration or attempt of penetration cannot be ruled out". The statement of the victim shows that she has stated that at night and the morning, her father used to insert his part of urination in her part of urination and she did not state to her mother. Further, she has stated regarding the sexual assault by her father.

6] No doubt, from the Whatsapp chats, it appears that there is difference of opinion between the informant and the applicant and some disputes are there. But at this stage, prima facie in view of allegations against the applicant of serious nature, it is not just and

proper to release the applicant on bail. Mere filing of an affidavit of the mother of the applicant, at this stage is not just. Therefore, in view of allegations against the applicant, this is not the fit case to grant bail to the applicant. The investigation is in progress. Hence, application is to be rejected. With this, I proceed to pass the following order:

ORDER

- 1] The application is rejected.
- 2] Bail application stands disposed of accordingly.

Pune.
Date – 16.02.2024.

(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	- 16.02.2024
Order dictated on	- 16.02.2024
Order transcribed on	- 16.02.2024
Order signed by P.O.	- 16.02.2024
Uploaded on	- 17.02.2024