

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. 05/2023 registered with Vishrambaug police station for the offences punishable under Sections 363, 376(2)(n) 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 she has given no objection for releasing the applicant on bail.

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 under Section 363 of the I.P.C. on 04.01.2023. The victim is 16 years and 4 months old. On 02.01.2023, the informant leaved the victim in the college and in the evening she did not return. The informant came to know that the victim was having love affair with the applicant and accordingly, he has lodged the report. On 28.09.2023 the victim gave phone call to her father and informed him that she was staying at Hyderabad along with the applicant and she would come back after her 18 years of age. On 06.01.2024, the victim and the applicant

appeared before the police and she told to the police about her love affair with the applicant and marry to the applicant, she went along with the applicant at Hyderabad on 02.01.2023 and married to him in June-2023. They had physical relations and she was 4 months pregnant.

5] The medical examination report discloses that they were in love relationship and she eloped with the applicant and went to Hyderabad and they performed marriage. No history of physical violence. She disclosed the applicant as her husband and she was 4 months pregnant.

6] 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 22 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

7] The POCSO Act was formulated to protect the children under the age of 18 years from sexual exploitation. The Act was never meant to criminalize consensual romantic relationships between adolescence. In the present case, it appears that it was consensual romantic relationship between the victim and the applicant.

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 **Shrinivas Polappa Dhangar** 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 submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 6] The applicant shall not leave India without prior permission of the Investigating Officer.
- 7] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 8] Bail application stands disposed of accordingly.

Pune.
Date – 13.02.2024.

(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	- 13.02.2024
Order dictated on	- 13.02.2024
Order transcribed on	- 13.02.2024
Order signed by P.O.	- 13.02.2024
Uploaded on	- 14.02.2024