

ORDER BELOW (EXH.1) IN
BAIL APPLICATION NO.2688/2024

The applicant **Mangesh Shankarrao Gaikwad** is seeking bail under section 438 of Code of Criminal Procedure, 1973 (hereinafter referred as Cr. P.C.) in connection with Crime No.93/2024 registered with Vishrambaug police station for the offences punishable under Sections 354, 354-A of the Indian Penal Code, 1860 (hereinafter referred as IPC) and under section 8 and 12 of POCSO Act.

2] It is the contention of the applicant that he has not committed any offence much less and any offence punishable with death or life imprisonment. He is falsely implicated. The alleged recovery has been made hence, the custody of the applicant is not required. He will not hamper with the investigation machinery and will cooperate with the investigation agency as and when required for the purpose of investigation. He is only earning member in the family. He is resident of given address. He is ready to furnish surety. Hence, prayed to release him on pre-arrest bail.

3] Investigating Officer submitted his report and opposed the application on the various grounds that since the date of offence applicant is absconding. The letter is given to Deputy Commissioner of Police for CDR and Tower location of the mobile of the accused. The statements of the witnesses is

yet to be recorded. The vehicle used in the crime is yet to be seized. The mobile of the accused is to be seized. If released on pre-arrest bail, he will not cooperate in the investigation. Hence, prayed to reject the application.

4] The learned APP has also opposed the application on the same grounds and contended that investigation is in progress and offence is serious. Hence, prayed to reject the application.

5] The learned counsel for the applicant has argued that the present case is totally false, malicious and made by the respondent no.2 with a ulterior motives to satisfy her personal vendetta. The recovery has been accomplished hence the custody of the applicant is not required. There is reasonable ground to believe that he is not guilty of any offence levelled against him. If released on pre-arrest he will not hamper, he will cooperate with the investigating agency. The age of the victim is near to the majority and attain the majority. There is no need of custodial interrogation and therefore, pre-arrest bail may be granted.

6] A perusal of the record would show that earlier Additional Sessions Judge, Pune rejected the application Exh. 4 for ad-interim anticipatory bail, wherein, it is observed that “prima facie it appears that the applicant is 34 years old and married person having one child. It further prima facie reveals

that victim is 16 years and 5 months old to whom applicant had taken in his house and he had taken her in his house in the absence of his wife and son and at that time he tried to become close to the victim and made demand of kiss from the victim". Thus, as observed age of the applicant is 34 years and as he is married person inspite of that he tried to become close to the minor. There is also say of the complainant on record that applicant is working in a school and because of this incident her daughter is frightened.

7] As reported by the IO, custody of the applicant is required for the purpose of detail investigation. Moreover, after incident applicant sent messages to the victim on her mobile through whatsapp and prayed apology that means it is known to him that he has committed an offence. He took the victim on his moped and that moped is required to be seized for the purpose of investigation. The process of recording of statements fo witnesses is also going on. The applicant working in educational institution and committed the said offence and therefore, custody of the applicant is required for the purpose of detail investigation.

8] A perusal of the case diary and submission of IO, I am of the view that there is material on record against the accused. There is need of custody of the applicant for detail investigation and custodial interrogation. In such facts and

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circumstances, I am of the view that applicant is not entitled to be released on pre-arrest bail. Hence, order.

ORDER

Bail application No.2688/2024 is rejected.

Date : 05/06/2024.

(J. G. Dorle)
Additional Sessions Judge,
Pune.

CERTIFICATE

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

Name of Steno : Shivaji N. Patil (Stenographer G-I)

Court name : Shri. J. G. Dorle
Additional Session Judge, Pune

Judgment/Order delivered on : 05/06/2024.

Judgment/Order signed by P. O. : 06/06/2024.

Judgment/Order uploaded on : 06/06/2024.