

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. 500/2023 registered with Vimantal police station for the offences punishable under Sections 366-A,376,376(2)(n) of the Indian Penal Code and under Sections 4,6,12 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 mother of the victim has lodged a report against the unknown under Section 363 of the I.P.C. on 28.09.2023. The victim is 16 years and 3 months old. On 26.11.2023, when there was subject of the marriage of the victim for discussion, the victim left the house on the pretext that she would go to her maternal aunt and she did not return. Though searched, the victim did not find and hence, the report lodged on 28.02.2023.

5] The statement of the victim was recorded 19.02.2024. Her

statement discloses that her mother was repeatedly asking for the marriage and the victim got annoyed and left the house on 23.09.2023 and went to the house of elder sister and thereafter she returned back to home. In the meantime her mother had lodged the report to the police. Then her mother produced her before the police and the police sent her for medical examination and at that time, she denied her medical examination. Police handed over her custody to her mother. Again thereafter, the mother of the victim was repeatedly insisting the victim for her marriage and therefore, she told about the same to her friend i.e. the present applicant and he gave assurance to the victim that they would elope and marry and stay away. The victim got faith on him. On 13.01.2024, the applicant had taken the victim at Chikhali on his two wheeler and had taken rented room in Sairam Colony, near Bhaji Mandai, Chikhali, Pune. They told nearby people that they had performed love marriage and she wore artificial marriage string and Jodavi. In the said period, under the pretext the marriage, the applicant had repeatedly established physical relations with the victim.

6] The victim was examined by the doctor on 14.02.2024. The victim narrated the history to the doctor and disclosed the applicant as her boyfriend. She disclosed to the doctor that the applicant and the victim met one and half years before and established love relationship and she has disclosed their sexual relations at Chikhali.

Ld. Advocate for the applicant has placed his reliance in -

i] ***Nitin Damodar Dhaberao Vs. State of Maharashtra in Criminal Application n(BA) No. 718 of 2023 decided on***

05.01.2024,

ii] Imran Iqbal Shaikh Vs. The State of Maharashtra in Bail Application no. 997 of 2022 decided on 26.04.2023.

7] 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 26 years old. The applicant is in his 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 **Raju Chandrakant Paike** 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 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 submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 7] The applicant shall not leave India without prior permission of the Investigating Officer.
- 8] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 9] Bail application stands disposed of accordingly.

Pune.

Date – 27.03.2024.

(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	- 27.03.2024
Order dictated on	- 27.03.2024
Order transcribed on	- 27.03.2024
Order signed by P.O.	- 27.03.2024
Uploaded on	- 28.03.2024