

ORDER BELOW EXH.1

(Ajay Ganpat More V/s. State of Maharashtra)

1] Perused application and say. Heard Advocate for applicant and APP for the State.

2] This is first bail application filed under section 439 of Cr.P.C. by applicant in respect of his arrest in C.R. No.320/2019 registered at Dattawadi Police Station for the offence punishable under section 376(3) of the Indian Penal Code and under section 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that father of victim aged about 17 years 10 months lodged report stating that there was love relationship between victim and applicant, since two years he convinced victim, but it was in vain. On 15.4.2019 victim was suffering from fever and omitting. She was examined in Kamla Nehru hospital and it revealed that she was six weeks pregnant. Upon inquiry with victim she told that applicant committed sexual intercourse with her.

3] According to applicant he is falsely implicated in this matter. It is a case of love affair. There is delay in lodging report. Victim is more than 17 years old therefore, she knows the consequences of the act. There was no force from the applicant. Applicant is 22 years old and student. He is permanently residing at Janata Vasahat, Pune. He has no criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] APP and I.O. objected this application on the ground that investigation is in progress. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. He is resident of Chiplun, so there is possibility of the absconding of applicant. So, they

prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From statement of victim role attributed to applicant can be gathered. It revealed that due to love affair victim and applicant were meeting each other. Applicant proposed victim. Her parents also fixed her marriage with present applicant. He committed sexual intercourse with her prior to one and half month and asked her not to disclose incident to anyone. She is ready to marry with applicant. Victim is 17 years old and applicant is 22 years old. Victim has attained age of sufficient maturity and knows the consequences of act.

6] In this context it is necessary to rely on authority cited in ***Sunil Mahadev Patil Vs. State of Maharashtra reported in 2016 All MR (Cri.) 1712***, in which it is observed that if statement of prosecutrix and witnesses shows that they were in love relationship with each other they eloped and went to temple and performed marriage, they started residing together in the house of relative then there are mitigating circumstances. Moreover, it is observed that factor i.e. age of prosecutrix, whether act is violent, whether there are antecedents or not, whether offender is capable of repeating the act or not, whether there is likelihood of threats or intimidation if at all the boy is released, whether chance of tampering with material witnesses and age of the applicant and his employment and plan, stabilize and secure his future are to be taken into consideration while deciding bail application, when boy and minor girl are in love with each other.

7] Ratio laid down in above cited ruling is noted. Medical report shows history of love affair and history of consensual penetrative vaginal sexual intercourse. Victim became pregnant and after detecting her

pregnancy report is filed. So, victim did not complain since beginning. There are no injuries on body of victim. These are mitigating circumstances. Moreover, investigation is practically over. Personal custody of applicant is not required. He has no criminal antecedents. He is permanently, residing at Janata Vasahat, Pune. He is 22 years old and student and pursuing his career. No purpose would serve by keeping the applicant behind bar for unknown period. Due to all above reasons application deserves to be allowed with following order -

ORDER

- 1] The application is allowed.
- 2] The applicant Ajay Ganpat More be released on executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- 3] The applicant shall not tamper the prosecution evidence in any manner.
- 4] The applicant shall attend Dattawadi Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till the charge-sheet is filed.
- 5] The applicant shall not meet, harass, threat and pressurize the victim.
- 6] The applicant shall co-operate investigating machinery as and when required.
- 7] Prior to furnishing surety, the applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.

Sd/-

Pune.
Date – 08.7.2019.

(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	- Sau. Arya Nikam (Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 08.7.2019.
Order signed by P.O.	- 08.7.2019.
Order uploaded on	- 10.7.2019.