

**ORDER BELOW EXH.1**

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

2] This bail application is filed under section 438 of Cr.P.C. by applicant in respect of apprehension of his arrest in C.R. No.338/2019 registered at Lonikand Police Station for the offence punishable under section 354-A of the Indian Penal Code and under section 12 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that victim aged about 17 years lodged report stating that applicant is their neighbourer. On 10.6.2019 applicant whistled by seeing her, caught hold of her hand and told that he loves her. Prior to this also, applicant committed similar acts with her and threatened to defame her. She told about this to her parents. Her father asked reason of act of applicant to his mother. Applicant abused her father and beat her.

3] According to applicant he is falsely implicated in this matter. There is previous enmity. Custodial interrogation of applicant is not required. He is doing job and permanent resident of Hadapsar, Pune. Investigation is practically over. He is ready to abide the conditions. Due to levelling of offence punishable under section 354-A of Indian penal Code and section 12 of POCSO Act, there is apprehension in the mind of applicant and he prayed to grant protection under section 438 of Code of Criminal Procedure.

4] APP and I.O. objected this application on the ground that investigation is in progress. Applicant will pressurize victim and

witnesses. He has criminal antecedents and since 2015 various offences are levelled against him in Wanowarie police station. There is possibility of tampering the evidence. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Victim made allegations of whistling by applicant by seeing her and fact that he proposed her, he threatened to defame her. Considering allegations and nature of offence, investigation is practically over. Custodial interrogation of applicant is not required. If certain conditions are imposed, then it will suffice the purpose. Police papers shows that statements of most of the witnesses are recorded. Advocate of applicant submitted that due to filing of previous offences it is not proper to deny applicant bail and he relied on authority cited in **Maulana Mohammed Amir Rashadi V/s. State of U.P. & anr.,2012(2) Mh.L.J. Cri. 412**. He filed on record certified copy of judgment in Sessions Case 60/2018 which was filed u/s. 307, 323, 506, 504 r/w. S. 34 of Indian Penal Code and applicant was one of the accused. He was acquitted. Due to levelling of offences punishable under section 354 read with 34 of Indian penal Code and section 8,12 of POCSO Act, apprehension in the mind of applicant is reasonable. Applicant is doing service and resident of Hadaspar, Pune. Considering role attributed to him, it is proper to grant protection under section 438 of Code of Criminal Procedure on imposing certain conditions and following order is passed -

**ORDER**

1] The application is allowed.

- 2] The order below Exh.4 dated 28.6.2019 is confirmed with certain modification.
- 3] In the event of arrest in Crime No. 338/2019 in Wanowarie Police Station, applicant Alfaz Shakil Pathan @ Gachkya be released on executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- 4] The applicant shall not tamper the prosecution evidence and shall not pressurize victim in any manner.
- 5] The applicant shall attend Wanowarie Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till filing of the charge-sheet.
- 6] The applicant shall not meet the victim, threat and pressurize the victim.
- 7] The applicant shall co-operate investigating machinery as and when required.
- 8] The applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.
- 9] Inform Wanowarie Police Station accordingly.

Pune.  
Date – 05.7.2019.

Sd/-  
(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.

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|----------------------|---------------------------------------------|
| Name of Steno        | - Sau. Arya Nikam (Stenographer G-1)        |
| Court Name           | - Smt. R.V.Adone, Addl.Sessions Judge,Pune. |
| Date of Order        | - 05.7.2019                                 |
| Order signed by P.O. | - 05.7.2019.                                |
| Order uploaded on    | - 06.7.2019.                                |