

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. 195/2023 registered with Swargate police station for the offences punishable under Sections 376, 376(2)(n), 376(3) of the Indian Penal Code and under Sections 4,6,8,12 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 victim aged 15 years has lodged a report against son of her maternal uncle i.e. the applicant by making allegations against him that under the pretext of marriage from August-2022 to March-2023, in her house, he repeatedly established physical relations with her and made her pregnant. The applicant is selling dustbin bags and in 2021, he proposed for the marriage to the victim and in their family, the marriage with the son of the maternal uncle is valid.

5] Further FIR indicates that last menstrual cycle was in

October-November-2022 and thereafter, the victim missed her periods. The victim neglected the said fact but her abdominal size was increased and abdominal pain started to her. Therefore, her mother took the victim to Pune Adventist Hospital and after sonography, it was revealed that she was 7 months pregnant. The doctor told considering her minor age, her delivery was not possible and they asked to obtain the signature of the police and therefore, the victim went to Swargate Police Station and lodged the report in the presence of her mother.

6] The statement of the doctor Mallica Gaikwad discloses that the age of the victim mentioned on the OPD papers as 13 years and she found 7 months pregnant. Her name was disclosed on the OPD paper correctly and on sonography paper, her name was mentioned as the victim Vijay Kale. On 14.07.2023, again the mother of the victim came to the hospital and at that time, she told them to inform to the police. Thereafter, the victim and her mother did not come to her.

7] It appears prima facie that the date of birth of the victim is 20.08.2007. Thus, the victim was 15 years old. The doctor examined the victim on 25.07.2023. she disclosed her love relationship with maternal cousin and disclosed regarding consensual physical relations. Further, it reveals that DNA samples have already been sent to Forensic Science Laboratory.

8] Thus, it is case of love affair of a boy and a girl. The victim

had attained age of understanding and she had surrendered to the physical desires of the applicant out of her love and affection towards him. 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 19 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

9] 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 Ashok Anil Kale 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 not contact with the victim and

family members, in any manner.

- 6] The applicant shall not confront to the victim and not to enter in the area where the victim is residing.
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave India without prior permission of the Investigating Officer.
- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.
Date – 23.08.2023.

(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	- 23.08.2023
Order dictated on	- 23.08.2023
Order transcribed on	- 23.08.2023
Order signed by P.O.	- 24.08.2023
Uploaded on	- 24.08.2023