

ORDER BELOW EXH.1

1] This application has been filed by the applicants for seeking pre-arrest bail u/s.438 of Code of Criminal Procedure in connection with C.R. No. 960/2023 registered with Kondhwa Police Station for the offences p/u/ss. 354, 324, 323, 504, 452, 143, 147, 149 of the Indian Penal Code and p/u/s 8 of the Protection of Children from Sexual Offences Act. [Hereinafter Indian Penal Code referred to as “IPC” and Protection of Children from Sexual Offences Act referred to as “POCSO Act” for the sake of brevity.]

2] The prosecution has filed say vide Exh.9 and opposed this bail application. The informant has filed written statement reply vide Exh.12 and opposed this bail application.

3] Heard Ld. Advocate for the applicants and Spl. P.P. for the State. Perused application, say filed by the prosecution and police papers and the documents tendered by the applicant i.e. the report filed by applicant no. 2 vide C.R. no. 959/2023 and documents tendered by the original complainant against i.e. N.C. registered against applicant no. 1.

4] It is the case of the prosecution that on 16.09.2023 at around 11:30 p.m., the informant and her husband were proceeding from the parking place of the building by two wheeler, applicant no. 1 and her relatives, applicant no. 2, applicant no. 3 and Pasha Hakim, Aayaj Hakim, Moulana Shaikh and son of elder sister of Pasha Hakim, Arbaj Saiakh and Avej Shaikh followed their two wheeler along with

wooden logs and iron rod. The informant and her husband went in the house and at that time, applicants caught hold hairs of the of the informant and beat her. All other male persons entered into the house of the informant. Pasha Hakim caught hold younger daughter of the informant aged 11 years, by holding her breast and pulled her out of the house. Aayaj Shakih caught hold, the informant's daughter aged 16 years by holding her hairs and pulled her out of the house and twisted the hand of her daughter. Son of elder sister of Pasha Hakim beat daughter of the informant aged 8 years. Moulana Shaikh inappropriately touched the informant and was trying to pull her out of the house and therefore, clothes on her person torn. Aayaj Shaikh also tried to pull the husband of the informant out of the house and therefore, the informant has lodged a report on 17.09.2023.

5] There are statement of the witnesses including the statement of the victims, who are daughters of the informant, aged 17 years and 11 years. It appears prima facie that recovery has already been done. The FIR lodged by applicant no. 2 i.e. Asiya Arif Shaikh vide C.R. no. 959/2023, before registration of the present crime and copy of the NC tendered on the record, prima facie, it reveals from it that there was occurred quarrel and in the said quarrel alleged incident took place. Thus, it seems prima facie that there was dispute on account of parking and quarrel took place.

6] In the facts and circumstances, considering the role attributed to the present applicants, their custodial interrogation is not necessary. Hence, it is just to grant pre-arrest bail to the applicants

by imposing conditions upon them. With this I proceed to pass following order.

ORDER

- 1] The application is allowed.
- 2] Interim protection granted to the applicants is confirmed.
- 3] In the event of arrest of applicant nos. **1. Amish Pasha Hakim, 2. Asiya Arif Shaikh, 3. Asma Firoz Shaikh**, in connection with C.R.No. 960/2023 registered with Kondhava Police Station for the offences punishable under Sections 354, 324, 323, 504, 452, 143, 147, 149 of the Indian Penal Code, under Section 8 of the Protection of Children from Sexual Offences Act be released on executing P.R. bond of Rs.50,000/- each with one surety in the like amount on the following conditions :
- 4] The applicants shall not tamper the prosecution evidence in any manner.
- 5] The applicants shall not harass, threat and pressurize the victim and witnesses.
- 6] The applicants shall attend concerned police station on every Monday between 10.00 a.m. to 11.00 a.m. till completion of the investigation and as and when called by the investigation officer and shall co-operate for investigation.
- 7] The applicants are directed not to indulge in illegal activities or other crimes.
- 8] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.

Pune.
Date – 16.10.2023.

(S.P Ponkshe)
Addl. Sessions Judge, Pune.

CERTIFICATE

“I affirm that the contents of the P.D.F. File Order are same word for word as per original Order.”

Name of Steno	-	Nitin M. Shinde, Stenographer Grade III
Court Name	-	Smt. S. P. Ponkshe, Spl.Judge under POCSO Act, Pune.
Date of Order	-	16/10/2023.
Order checked and signed by P.O.	-	17/10/2023.
Order uploaded on	-	18/10/2023.