

ORDER BELOW EXH.1

1] This application has been filed by the applicant for seeking pre-arrest bail u/s. 438 of Code of Criminal Procedure in connection with CR No. 381/2023 registered with Kondhawa police station for the offences p/u/s. 354, 376(2)(f), 376(2)(n), 376(3), 506 of the Indian Penal Code and p/u/s. 4,12 of the Protection of Children from Sexual Offences Act and under Sections of Prohibition of Child Marriage 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 and opposed this bail application. The informant has filed say and strongly resisted this application

3] Heard Ld. Advocate for the applicant and Spl. P.P. for the State. Perused application, say filed by the prosecution and the Charge-sheet.

4] The victim aged 16 years and 6 months old has lodged a report against the applicant who is son of her paternal aunt. The victim had appeared for 10th standard examination and was taking education Shri Sant Gadage Maharaj Madhyamik Vidyalaya, Kondhawa, Pune. Her sports teacher Avinash Chitkari was removed from the school due to abuse to the girl students. At that time, Principal of the school informed to all the students that if anyone has suffered any abuse inform to him and they would help. The victim got

motivated and she disclosed the incidents occurred with her to the Principal Arva Husain Singh. The Principal took the help from Muskan foundation and informed the incident to the parents and at that time, she was in 10th standard. The FIR indicates that the victim's paternal aunt, uncle were their neighbours. Since her LKG up to 8th standard, the son of paternal aunt i.e. the present applicant repeatedly committed sexual intercourse with her forcibly. Thereafter, the friend of the applicant by name Sonu Baban Vhavale along with the present applicant committed forcible sexual intercourse with her in her house and in the house of Akshay i.e. the present applicant. The applicant directed the victim not to disclose the incidents to anyone. Therefore, the victim was scared and did not tell the incident. Further, when she was in 8th standard, the applicant was teaching to drive Scooty and he used to seat on rear seat and pressing her breast and at that time, she was feeling uncomfortable. Accordingly, the victim has lodged report against the applicant and co-accused Sonu Vavhale in the presence of her mother on 11.04.2023.

5] The victim was sent for medical examination on 17.04.2023. She has denied medical examination. Later on on 24.04.2023, again the victim has been sent for medical examination and she gave consent for her medical examination. She narrated the history to the doctor. It discloses that the victim has made allegations against the present applicant and Sonu Vavhale in respect of forceful penetrative vaginal intercourse. The medical evidence supports prima facie the case of the prosecution. It appears that co-accused has been arrested and he is in Jail. The Charge-sheet has been filed, wherein the applicant has shown as absconded.

6] Considering prima facie the nature of the allegations against the applicant in respect of commission of penetrative sexual intercourse upon the victim, who was 'child' at the time of the alleged incident, it appears that his custodial interrogation is necessary. Defence in respect of property dispute etc. cannot be considered at this stage of the investigation. The nature of the offence is serious. Therefore, it is not just and proper to grant pre-arrest bail to the present applicant. Hence, application is to be rejected. With this I proceed to pass following order.

ORDER

- 1] The application is rejected.
- 2] The application stands disposed of accordingly.

Pune.
Date – 24.01.2024.

(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	- 24.01.2024
Order dictated on	- 24.01.2024
Order transcribed on	- 24.01.2024
Order signed by P.O.	- 24.01.2024
Uploaded on	- 25.01.2024