

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. 258/2023 registered with Khadak police station for the offences punishable under Sections 376 and 506 of the Indian Penal Code and under Sections 4, 5(j)(2), 6 and 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 opposed this bail application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and police papers. Perused photographs of the victim and the applicant.

4] It is argued by Ld. Advocate for the applicant that the age of the victim is of understanding age. When the doctor told that the victim has become pregnant, the report has been lodged. The physical relations of the victim and the applicant were consensual and therefore, she never disclosed earlier about the same. Further, it has argued that the marriage of the applicant has not fixed with any other girl and prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that no love affair has proved on record and there were family relations and out of that the applicant has established non consensual intercourse with the victim and made her pregnant. Prima facie there is material against the applicant. Hence, prayed for rejection of the application.

6] The victim aged 17 years and 6 months old has lodged a report against the applicant on 24.07.2023. The applicant is cousin brother of the friend of the victim and the victim used to go to the house of her friend and the applicant was residing near to the house of the friend of the victim. The applicant used to come along with his finance Vaishnavi in the house of his sister. The victim got acquainted with them and they were having family relations and sometimes, the victim used to go to sleep in the house of her friends.

7] The FIR indicates that in the months of April -2023, the victim went to the house of her friend Ukta but she was not in the house and the applicant had taken the victim in his house by telling her that family members Ulka and his family members went for some work. Thereafter, in his house, the applicant by giving threat to the victim has forcibly established physical relations with her. Then he had given her threat not to disclose the incident to anyone otherwise, he would defame her in the society and would kill her and her mother. Therefore, she did not disclose the incident to anyone.

8] Around 3 months, the victim missed her menstrual cycle and there was pain in her abdomen and she informed about the same to her mother. Her mother had taken the victim to the doctor and the doctor gave her tablets. Thereafter, also the victim did not have menstrual cycle. Then her mother had taken the victim to Bharti hospital, Pune. It was revealed from the doctor that the victim was 3 months pregnant. Thereafter, her mother questioned her by taking her in confidence. The victim disclosed the act committed by the applicant with her.

9] It appears that the victim has become pregnant and she disclosed the incident of the month April-2023. It further reveals that the victim has not narrated the history of any repeated incident, but she has disclosed the only incident of the month April and that too, it was non consensual. Further, prima facie it appears that the marriage of the applicant has fixed with some other girl by name Vishanvi. The investigation is in progress. Admittedly, the victim and the applicant knew each other and also the victim knows that the marriage of the applicant was fixed with Vaishavi. The applicant is 28 years old. In the facts and circumstances, photographs tendered on record, prima facie not useful to consider as the victim and the applicant had love affair.

10] Therefore, as the investigation is in progress and in view of nature of the allegations, and prima facie material on record, it is not just and proper to release the applicant on bail. Therefore, application is to be rejected. With this, I proceed to pass the following order:

ORDER

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

Pune.
Date – 30/10/2023.

Sd/-
(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	- Nitin M. Shinde (Steno G-3)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 30.10.2023
Order dictated on	- 30.10.2023
Order signed by P.O.	- 30.10.2023
Uploaded on	- 31.10.2023