

**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. 557/2023 registered with Bharti Vidhyapeeth police station for the offences p/u/s. 354, 354-D of the Indian Penal Code and p/u/s. 12 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 and opposed this bail application.

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

4] The victim aged 16 years has lodged a report against the applicant. The FIR indicates that in the month of August 2022, she was going to learn to make cake at Regal Bakery. Present applicant was running the said bakery and he told the victim to look after the counter of the bakery also. During February to March 2023, when the victim was working on the counter of the bakery, the applicant was touching her backside and her breast and the victim felt that the touch was bad. The victim was scared, but she did not tell anyone about the same, but she stopped to go to bakery. Thereafter, the applicant gave call to the victim and called her at Taljai to meet him. But,, she did not go.

5] The FIR further indicates that on 29-08-2023, at about 9.41 p.m. to 9.48 p.m. she has received messages from mobile phone number of the applicant and he sent messages to her “बोल कल कभी आनेका है, मै कभी आउ वहाँ, किधर मिलेगी, घरपर क्या.” The victim gave message to him as ‘No’. Thereafter again he send messages as, “तळजाई मिलने के लिए आ जाओ, अच्छा सचमे एक बात बोलो आप प्यार करते हो के नही मुझसे, बोलो सचमे.” The victim did not reply. Then on next day the victim told the incident to her father. The father of the victim gave phone calls to the applicant and he told that he would come to meet him, but he did not come. On that day there was Rakshabandhan and therefore, her father took her to Saswad. They stayed there for one day and on 01/09/2023, they came to Pune and her father had taken her to the police station and the victim has lodged a report.

6] It seems that the applicant has produced on record a letter issued by him to the police and he has shown willingness to submit his mobile phone on 18/09/2023. Further he has submitted that on 25/09/2023 he showed willingness to handover the mobile phone and SIM card but, the investigating officer did not shown any interest to take it from the applicant. There are allegations of commission of sexual assault in the month of February to March 2023 and it appears that the victim has lodged the report on 01/09/2023, after receiving the alleged messages from the applicant. Thus, it seems that there is considerable delay in lodging a report in respect of alleged offence of sexual assault. The applicant is ready to hand over his mobile phone and SIM card. In the facts and circumstances custodial interrogation

of the applicant is not necessary. Hence, interim protection granted is to be confirmed and this application is to be allowed, by imposing conditions upon the applicant. With this I proceed to pass following order.

**ORDER**

- 1] The application is allowed.
- 2] The order passed below Exh. 4 is hereby confirmed.
- 3] In the event of arrest of applicant, in connection with C.R.No. 557/2023 registered with Bharti Vidyapeeth Police Station for the offences punishable under Sections 354 and 354-D of the Indian Penal Code, under Section 12 of the Protection of Children from Sexual Offences Act be released on executing P.R. bond of Rs.50,000/- with one surety in the like amount on the following conditions :
- 4] The applicant shall not tamper the prosecution evidence in any manner.
- 5] The applicant shall not harass, threat and pressurize the victim and witnesses.
- 6] The applicant 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 applicant is 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 – 19.10.2023.

(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        | - Smt. S. R. Sapatarshi, (Steno G-I)                 |
| Court Name           | - Smt. S. P. Ponkshe, Addl. Sessions<br>Judge, Pune. |
| Date of Order        | - 19.10.2023                                         |
| Order dictated on    | - 19.10.2023                                         |
| Order transcribed on | - 20.10.2023                                         |
| Order signed by P.O. | - 20.10.2023                                         |
| Uploaded on          | - 21.10.2023                                         |