

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. 351/2023 registered with Wanawadi police station for the offences punishable under Sections 363, 376, 376(2)(j)(n) of the Indian Penal Code and under Sections 4 and 8 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 charge-sheet.

4] It is argued by Ld. Advocate for the applicant that the investigation is completed and the charge-sheet has been filed. The applicant was arrested on 03.08.2023. CWC report is on record and it discloses that the victim did not want to go to her parents house. The applicant is only 20 years old. The statement of the victim was recorded on 25.07.2023. The further detention of the applicant behind the bars is not required and prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that the victim is only 15 years old and she named specifically the present applicant. She is mentally challenged and prayed for rejection of the application.

6] It seems that though, it is argued nothing has mentioned by the informant in the say in respect of mental challenged fact of the victim. No doubt, the mother of the victim has opposed this bail application. Perused report received from CWC in respect of her counseling. It appears that nothing has mentioned in respect of submissions of mental health problem of the victim.

7] The mother of the victim has lodged a report on 15.07.2023 under section 363 of the IPC. The victim is 15 years and 24 days old, while lodging a report. The brother of the victim gave phone call to the informant and told her that he saw the victim while going along with the applicant and she did not return.

8] The statement of the victim was recorded on 25.07.2023. She disclosed that before one and half year, the applicant asked her for friendship and she knew him as residing in their society and she consented for the friendship. Thereafter, the applicant expressed that he likes her and he proposed her before four months of her birthday and she accepted.

9] In the month of June-2023, she went in the house of the friend of the applicant on 7th floor of their society and without her consent, he established physical relations with her. She was confused

and she did not told the incident to her mother. Thereafter, on 10.07.2023 in the house of his friend he established physical relations with her. On 15.07.2023 the applicant had been come in her house at around 03:00 p.m. and her brother saw them together and informed to her mother. Therefore, they both went outside the house. The applicant told the victim that they would elope and accordingly, they eloped and went to the house of maternal uncle of the applicant at Khadki. Thereafter, the mother of the applicant told the victim to go to home and dropped her near Ramtekadi, then she went to home and her mother had taken her to the police. She falsely told that she was in Mandir thereafter, she told to the doctor in Sassoon hospital regarding the acts committed by the applicant with her.

10] The victim was examined by the doctor on 17.07.2023, where she narrated the history to the doctor. She disclosed their love affair and consensual sexual intercourse committed by the applicant with her. It seems that when her brother saw them together, she eloped with the applicant. Prima facie, nothing discloses that there was any mental problem to the victim.

11] 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. 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 22 years old. The applicant is in his early 20's deserves to get employment, to plan and

stabilize and secure his future. The investigation is completed and the Charge-sheet has been filed. Certainly trial will take its own time for disposal in accordance with law.

12] 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 **Rohan Sakharam Patole** 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 1st Monday and 1st Friday of every months between 10.00 a.m. to 11.00 a.m. 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 – 26/10/2023

(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	- Nitin M. Shinde (Steno G-3)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 26.10.2023
Order dictated on	- 26.10.2023
Order signed by P.O.	- 26.10.2023
Uploaded on	- 27.10.2023