

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. 51/2013 registered with Bharati Vidyapeeth police station for the offences punishable under Sections 363, 366-A, 376(2)(n) of the Indian Penal Code and under Sections 4,6,8 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 given no objection for releasing the applicant on bail.

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

4] The mother of the victim has lodged a report against the unknown under section 363 of the IPC on 15.01.2023. The victim is 16 yrs old. The victim appeared in the police station on 04.03.2024 and her statement was recorded by police. It discloses that she got acquainted with the applicant when she was studying in the school at Pimpri Chinchwad and they became friends. They were in contact. In the year 2022, the applicant proposed her and she told him that she has not become of marriagable age and she told him after her majority, he would ask her mother for the marriage.

5] Thereafter on 14.01.2023, the applicant came to met the victim near to her house and he told her that they would go to her village to show her to his uncle and aunt and he would again drop

her to Pune. Then they went to Barshi. The uncle and aunt of the applicant did not keep them in their house. Then they returned to their house at Jadhav Nagar and at that time, the victim came to know that her mother has lodged a report of kidnapping. She told her mother that it was not that she was kidnapped. Further, she disclosed that when she was alone in the house, the applicant established physical relations with her without her consent and she became pregnant. One year before, she got married to the applicant at Kalubai Mandir, Gate no.5, Market yard, without informing anyone. She has given birth to girl child on 07.09.2023 at Sassoon hospital.

6] Prima facie it appears that it is the case of love affair of a boy and a girl. The victim has attained age of understanding and she has 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.

7] The POCSO Act was formulated to protect the children under the age of 18 years from sexual exploitation. The Act was never meant to criminalize consensual romantic relationships between adolescence. In the present case, it appears that it was consensual romantic relationship between the victim and the applicant.

8] 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 **Santosh Mahadev Kale** 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 every Monday and Friday between 10.00 am to 11.00 am 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 submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 6] The applicant shall not leave India without prior permission of the Investigating Officer.
- 7] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 8] Bail application stands disposed of accordingly.

Pune.
Date – 15.05.2024.

(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	- 15.05.2024
Order dictated on	- 15.05.2024
Order transcribed on	- 15.05.2024
Order signed by P.O.	- 15.05.2024
Uploaded on	- 16.05.2024