

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. 74/2024 registered with Cantonment police station for the offences punishable under Sections 354, 354-D of the Indian Penal Code and under Sections 11,12 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.

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] It is argued by Ld. Advocate for the applicant that he has been falsely implicated in the case and prepared false and fabricated story. Chit has not been recovered during the investigation. The applicant saw the victim with some boy and told her that he would inform to her parents and therefore, false case is filed against him. Hence, prayed for allowing this application.

4] Ld. Spl. P.P. has submitted that there are two victims of 13 years old and the applicant is van driver. The victims calling him ‘Bhaiya’. Prima facie there is material against the applicant. Hence,

prayed for rejection of the application.

5] The mother of the victim has lodged a report against the applicant. The victim is 13 years old daughter of the informant and she is studying in 8th standard. The applicant is van driver and from his van the friend of the victim used to come to the school. The friend of the victim told the victim that her van driver demanded her mobile phone. The victim told her friend that not to give the mobile phone. On 07.03.2024, the applicant himself made demand of mobile phone from the victim and put his hand on the shoulder of the victim. The victim asked him why he was demanding her phone number and at that time, the applicant replied her, “समझने वालोंको इशारा काफी है”. Further, the friend of the victim had given the chit showing mobile phone number of the applicant, which was written by the applicant. Further, the applicant gave threats to the victim and her friend. Accordingly, the mother of the victim has lodged a report.

6] The statement of the victim was recorded on 17.03.2024. It discloses that on 13.03.2024 the friend of the victim told her that on earlier date when she was going by the van, ‘Bhaiya’ i.e. the applicant threatened her “अगर तुम दानोंने कोई सीन क्लिप्ट किये तो मैं दोनोंका देखुंगा”. The victim was knowing the applicant being the driver of the van of her friend and she was calling him as ‘Bhaiya’. Then the victim gave phone call to her mother on the mobile phone of the watchman. The principal of the school called the victim and her friend in the office. The friend of the victim told to the Principal that the applicant had given mobile phone number. Further, she has stated that since 1st

week of the March, the applicant was everyday demanding her mobile phone number to her friend. One day, when the victim was near the standing van of her friend, the applicant came from the victim's backside and put his hand on her shoulder and told her, "तु तेरा नंबर दे". The victim waived aside his hand. Again on 07.03.2024 after the school, the applicant was standing in the school premises and again he made demand of her mobile phone and upon asking by the victim, he told her, "समझने वालोंको इशारा काफी है तुम क्या बच्ची हो क्या". Then the victim asked whether he was proposing her for relationship or marriage. Then he answered that, "मैं जो भी सोचता हूँ लाइफलॉग सोचता हूँ अगर तेरी हाँ हो तो मैं तेरे घरवालोंसे भी बात करूँगा". Thereafter, the victim went near to her school bus. Then on 11th March, her friend had kept one chit with mobile phone number and told her that uncle gave the phone number. Further, she has stated that the said chit has been lost.

7] Ld. Advocate for the applicant has placed his reliance in Vivek Kumar Maurya Vs. State of U.P. in Criminal Misc. Bail Application no. 23551 of 2023 decided on 27.07.2023.

wherein, His Lordships observed in para no.10 that -

"The Court finds that large number of cases are coming in Courts wherein girls and women take undue advantage by lodging First Information Report on false allegations after indulging in long physical relationship with the accused. The time has come that courts should be very cautious in considering such bail applications. The law is heavily biased against males. It is very easy to make any wild allegations in First Information Report and implicate anyone on such allegations

as in the present case.”

8] Prima facie it appears that there are allegations of commission of sexual harassment by the applicant to the victim. The victim is studying in 8th standard and just 13 years old. The applicant is the van driver. The friend of the victim going by the van of the applicant. The applicant is 33 years old. No doubt, chit is not recovered but there is explanation that the chit is lost. At this stage, the investigation is in progress and prima facie there is no material to accept the arguments of Ld. Advocate for the applicant regarding the fact that the applicant saw the victim with some boy and he told her that he would inform to the parents and therefore, falsely implicated. Further, authority cited by the Advocate for the applicant is not applicable as facts are totally different. The investigation is incomplete and therefore, it is not just and proper to release the applicant on bail. Hence, 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 – 09.05.2024.

(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	- 09.05.2024
Order dictated on	- 09.05.2024
Order transcribed on	- 09.05.2024
Order signed by P.O.	- 09.05.2024
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