

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.139/2024. registered with Bhosari police station for the offences punishable under Sections 376, 376(2)(n) of the Indian Penal Code and under Sections 4, 6, 5(j)(2), 5(l) 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. Perused the documents tendered by the accused i.e. school leaving certificate of the victim, copy of the marriage invitation card of the victim and the present applicant.

4] The mother of the victim has lodged a report against the applicant on 07.03.2024. The victim was 17 years and 11 months old and applicant is the relative of the informant. They have fixed the marriage of the victim and the applicant and it was decided that after 18 years of age of the victim the marriage of the victim and the applicant would be performed. On 05.03.2024 it was revealed that the victim became pregnant and victim told her that in the month of

January 2024 the applicant established physical relations with the victim and she became pregnant. Therefore, she has lodged a report against the applicant.

5] The statement of the victim was recorded on 10.03.2024 and on that day she has completed her 18 years of age. She has further stated that their marriage has been fixed in the month of April. In January 2024 when she was alone in the house the applicant came and they had consensual sexual intercourse two times. On 05.03.2024 when she went to the Hospital for her abdominal pain, it was revealed that she was pregnant. The mother came in the Hospital to whom she told about her pregnancy. Further she has disclosed that she wanted to continue with her pregnancy as her marriage is fixed with the applicant. Similarly there is statement of the victim recorded u/sec.164 of Cr.P.C.. She has stated before the Magistrate that she would marry to the applicant and would give birth to baby. She has no complaint against the applicant. Similarly there is statement of the informant recorded u/sec.164 of Cr.P.C.. No doubt the consent of the minor is immaterial as it was given by the victim for physical relations when she was the child and below 18 years of her age.

6] That apart, it reveals that on 10.03.2024 the victim has completed her 18 years of age. The marriage invitation card discloses that the marriage of the victim and the applicant seems to be on 28.04.2024. Thus, considering all above facts, at the stage of the bail, it is fit case to grant bail to the applicant. Thus, this application is to be allowed. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Datta Vishnu Tamkar** 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 Friday of each month 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 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 – 24.04.2024.

(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	- Smt. B.R.Jakka (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 24.04.2024.
Order signed by P.O.	- 24.04.2024.
Uploaded on	- 25.04.2024.