

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.98/2024 registered with Sangavi police station for the offences p/u/s. 305, 354, 354-A, 323, 504 and 506 of the Indian Penal Code and p/u/s.8 and 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. P.P. for the State. Perused application, say filed by the prosecution and police papers.

4] Ld. Advocate for the applicant has placed his reliance in -

i] Narendra Sahbrao Patil Vs. The State of Maharashtra in Criminal Appeal no. 36 of 2002 decided on 23.01.2024,

ii] The State of Maharashtra Vs. Vasant Pundalk Shankpal in Criminal Appeal no. 469 of 2004 decided on 26.02.2020.

5] The deceased victim has lodged the report when she was admitted in the hospital on 14.03.2024. It appears that the victim's mother is doing house keeping job and the victim was doing job in Snehal Dental Clinic, Pimpale Saudagar since one year and six

months. Snehal Dental Clinic is of Dr. Yashwant Ujagare, who is the husband of the present applicant. Initially, Dr. Yashwant Ujagare behaved with the victim properly and thereafter, on seeing the victim alone, he used to touch her abdomen and by taking her hand in his hands, used to sit in his cabin and telling her that they would go to roam. The victim was 17 years and 11 months old. Dr. Ujagare was sending her messages on Whatsapp and she felt bad and therefore, in December-2023, the victim left the job. The FIR further indicates that the victim did not disclose about the same to her mother, brother due to fear that they would stop her college. After leaving the hospital of Dr. Yashwant Ujagare, the victim did the work at Smile Craft Clinic.

6] Further, FIR indicates that on 08.03.2024, Assistant in Snehal Dental Clinic by name Vaishnavi Mane met the victim at around 5.30 p.m. near Govind Garden Pimple Saudagar and she took the victim at Snehal Dental Clinic, where present applicant, Dr. Yashwant Ujagare and Amol Sutar were present. Vaishnavi Mane went away. Thereafter, the present applicant asked about affair of the victim and Dr. Yashwant Ujagare and made quarrel with the victim and beat the victim. At that time, Dr. Yashwant Ujagare was present there and Amol Sutar closed shutter of the clinic. The victim gave phone call to her family members and made shoutings loudly. Then Amol Sutar opened the shutter. Then the sister of the victim and Shiwani Dongare came there and she went along with them to Sangvi police station. Thereafter, her college was stopped. The present applicant told her that, “तु मला ओळखत नाहीस मी तुला सोडणार नाही” and her college was also stopped. On 09.03.2024 she consumed

poison at 4.00 p.m. She purchased said poisonous substance from the medical shop at Pimple Saudagar and it was medicine to kill rats. She started to suffer due to that substance at 3.00 a.m. on 10.03.2024 and her maternal uncle brought the victim at PCMC Thergaon Hospital. The police recorded her statement and at that time, she told the police that her maternal uncle did not take her to marriage at village and therefore, she drank the substance and further she disclosed the reason for telling above said false fact that the present applicant threatened her and her college would be stopped. Further, she disclosed that once she had went to roam along with Dr. Yashwant Ujagare and they did not have physical relations.

7] The statement of the daughter of maternal aunt of the victim i.e. cousin sister shows that she has reiterated the incident occurred in the clinic on 08.03.2024 and further, she has stated that she came to know that her maternal uncle took the victim to the hospital on 10.03.2024 and came to know that the victim consumed poisonous substance. Thereafter, she went to the hospital and deceased victim told her that Dr. Ujagare on seeing her alone, used to touch her abdomen and telling her that they would go to roam and sending her messages and stated further regarding the incident dated 08.03.2024 i.e. present applicant asked her about her affair with Dr. Ujagare and she beat her and threatened her and that was the reason that on 09.03.2024 she took poisonous substance. Similarly, the mother of the victim reiterated as per the sister of the deceased victim.

8] It seems prima facie that when the present applicant allegedly beat deceased victim, the shutter of the clinic seems to be closed and it appears prima facie that the present applicant gave threat to the deceased victim at that time.

9] The statement of witness Vaishnavi Mane prima facie discloses that she came to know from Amol Sutar that Dr. Yashwant Sir and the victim had been gone to roam to Konkan and also the victim told about the same to her. Further, she has stated that when she went near Snehal Dental Clinic along with the victim on 08.03.2024, the applicant told this witness to give the key in the clinic near Nakshatra Hotel and accordingly, she went there and handed over the key and when she returned back, shutter of dental clinic was closed and Amol Sutar and Pooja were standing outside and Amol Sutar told her that present applicant, Dr. Ujagare and the victim were inside and quarrel was going on and as told to him by Dr. Ujagare and the applicant, he was standing there by closing the shutter. After sometime, they heard shoutings and cries of the victim and therefore, Amol Sutar opened the shutter and the victim came outside with cries. After sometime her relatives came and dispute occurred between the relatives of the victim and the present applicant and Dr. Ujagare. On 12.03.2024, she came to know from the brother of the victim that she is admitted in New Thergaon hospital and her health was not good and asked to meet her. But she did not go on that day. On 16.03.2024, she came to know on phone that the victim expired on 17.03.2024 due to consumption of poisonous substance on 09.03.2024.

10] Prima facie it appears that the statement of the victim regarding the cause of death seems to be on record and she has disclosed the cause that the present applicant gave threat to her and beat her in the clinic by pulling down the shutter of the clinic and therefore, she had consumed poisonous substance immediately on the next day of the incident. Further, the deceased disclosed inappropriate touch to her by Dr. Ujagare. It reveals that there is overtact by this applicant i.e. not only she gave the threat to the victim on 08.03.2024 but she beat the victim and it resulted the immediate action by the deceased victim that she took the poisonous substance and she died during the treatment.

11] In the facts and circumstances, custodial interrogation of the applicant is necessary. Therefore, it is not just and proper to grant pre-arrest bail to the applicant. Therefore, 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.

Pune.
Date – 06.05.2024.

(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	-	S.V. Thakar (Stenographer G-1)
Court Name	-	Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	-	06.05.2024
Order dictated on -		06.05.2024
Order transcribed on	-	06.05.2024
Order checked signed by P.O.	-	07.05.2024
Uploaded on	-	07.05.2024