

ORDER BELOW EXH.1

1- Perused the application and say. Heard Advocate for applicant and APP for the State. Perused reply filed by original complainant.

2- This is first bail application filed under section 439 of Cr.P.C. by applicant in respect of his arrest in C.R. No.96/19 registered at Kothrud Police Station for the offence punishable under Section 376(i) of Indian Penal Code and under Section 3, 4, of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victims aged about 4 years each lodged report stating that she does work of cleaning utensils and washing clothes, her husband does labour work. On 19-03-2019, she went to her work and left both victims at the house of their aunt Sangita Kokare. At 3-00 p.m. she returned to house of Sangita Kokare, while taking meal one victim aged about 3 ½ years told that one Baba took her and another victim at his house, gave eatables, moved his hand from her vagina, moved his penis from her vagina and tried to insert his penis in her vagina. Upon inquiry with another victim aged about 4 years, she narrated similar act by said Baba. He also threatened them. When inquiry was made who was that Baba, they told that he was present applicant residing near house of their aunt. First informant asked applicant about his acts, he ran away.

3- According to applicant, he is falsely implicated in this matter. On 17-03-2019 quarrel took place applicant and first

informant, due to that he is falsely involved. No prima face case is made against him. He is 57 years old and doing labour work. Relative of first informant was residing near him as a tenant and quarrel took place between his family and family of first informant. Applicant is earning member of family. Investigation is practically over. He is not concerned with this offence. Applicant is permanently resident of Sutardara, Kothrud, Pune. He has no criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4- APP and I.O. objected this application on the ground that investigation is in progress. Two victims aged about 3 ½ year, 4 ½ year are involved in this matter. Applicant is in habit of consuming liquor. Considering age, applicant will pressurize victims and witnesses. There is possibility of tampering prosecution evidence and witnesses. So, they prayed to reject the application.

5- Allegations against the applicant are serious. From statement of victims and first informant role attributed to applicant can be gathered. There is allegation of touch to private part of victims and penetration. In medical report mother of victims gave similar history. Medical reports shows that perihymenal inflammation present and there is evidence of vaginal penetration. Victims are only about 4 years old. Applicant is 57 years old. Considering age of victims, there is possibility of giving threat and pressure to victims and witnesses. Applicant is in dominating position over victims. Investigation is in progress and in view of gravity of offence, there is possibility of tampering prosecution evidence.

6] According to Advocate of applicant, he is falsely implicated due to previous quarrel and there is no question of tampering prosecution evidence. In such circumstances, it is proper to release applicant on bail. In that regard, he relied on unreported bail applications 1- **Laddan Shah, son of Smail Shah @ Shamu Vs. The State of Jharkhand, 2017 CJ(Jhar) 414** and 2- **Jamaludeen Vs. State of Himachal Pradesh, 2017 CJ (HP) 296**. Ratio is noted but in case in hand, from police papers, prima facie involvement of applicant can be gathered. Allegations are serious and grave in nature. There is possibility tampering prosecution evidence. Therefore, as investigation is going on, at this initial stage, it is not proper to release applicant on bail. Hence, following order is passed.

ORDER

The application is rejected.

Pune.
Date -20.04.2019

(R.V.Adone)
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	- U. S. More Steno Grade II
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 20.04.2019
Order signed by P.O.	- 20.04.2019
Order uploaded on	- 20.04.2019