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. 510/2022 registered with Shirur police station for the offences punishable under Sections 366-A, 376(2)(n), 376(3) of the Indian Penal Code and under Sections 3 and 4 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 he has opposed this application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and charge-sheet. Perused written arguments tendered on behalf of the applicant.

4] Father of the victim has lodged report against unknown under Section 363 of th IPC on 14.07.2022. The victim aged 15 years 11 months did not find in the home since afternoon of 10.07.2022. Thereafter, the informant searched the victim but she did not find and therefore, lodged report on 14.07.2022. Statement of the victim was recorded on 12.10.2022. The victim has disclosed that the applicant used to come at the house of neighbour of the victim and the victim got acquainted with him and developed love relationship with him. On 03.07.2022, parents of the victim fixed her marriage

with Aniket Kadam but the victim did not interest t omarry to him and interest to marry to the present applicant. On 10.07.2022 when parents of the victim had been gone for attending Varshradha ceremony, at around 1.30 p.m. she gave phone call to present applicant and informed him about fixation of her marriage and insisted him to elope and called him near to her house. Accordingly, within 15 minutes, the applicant came near the house of the victim and the victim eloped with him on his motorcycle alongwith bag of clothes. Thereafter, they went at the native place of the applicant at Kuldharan, Tal- Karjat, Dist- Ahmednagar. His parents were not in the house. That time they stayed together and on 11.07.2022 they married in the temple of Goddess. Then they went to Kalamb and took room on rent and stayed together for one month. The applicant was started job in the showroom of cars and getting salary Rs. 9,000/-. The applicant established physical relations with the victim forcibly as they married. In the mid of August they both went to Kedgaon and took room on rent and the applicant was doing job of centering. Then on 12.10.2022 police came alongwith parents of the victim and took them to Shirur police station.

5] Further it appears that the victim has refused her medical examination on 13.10.2022. Thus, over all material on record discloses prima facie that the victim and the applicant are in love relationship. The applicant is only 20 years old. The victim herself left her house by calling the applicant and on her insistence they eloped and they were stayed together till 12.10.2022. During the said period they married and had sexual intercourse. The victim never

raised voice against the applicant during their stay together.

6] Learned advocate for the applicant placed his reliance in :

1.*S. Varadarajan V/s. State of Madras, reported in 1965 AIR 942.*

2.Sunil Mahadeo Patil V/s. State of Maharashtra, reported in 2016 All MR (Cri.) 1712.

3.Gorakshnath Samadhan Navnath Pagar V/s. The State of Maharashtra, reported in Bail Application No. 1498/2021, Bombay High Court, Aurangabad Bench.

4.Ganesh Suryakant Gundale V/s. The State of Maharashtra, reported in Bail Application No. 725/2020, Bombay High Court, Aurangabad Bench.

5.Ravindra Sultan Chavan V/s. The State of Maharashtra, reported in Bail Application No.1210/2018, Bombay High Court, Aurangabad Bench.

6.Faizen Wahid Beg V/s. The State of Maharashtra, reported in Bail Application No.3372/2021, Bombay High Court, Appellate Jurisdiction.

7] It appears that the investigation has been completed and charge-sheet has been filed. The role of the present applicant discloses that upon insistence by the victim, he had taken the victim alongwith him and they eloped and stayed together.

8] Thus, it is 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 towards

him. Further, in temple they married. 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 20 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future. Further, certainly trial will take its own time for disposal in accordance with law.

9] 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- Suraj Kaka Bhaval 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 not tamper with the prosecution evidence in any manner and shall not indulge in any offence.

4] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.

5] The applicant shall not leave India without prior permission of the Investigating Officer.

6] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.

7] Bail application stands disposed of accordingly.

Pune. (S.P. Ponkshe)
Date – 19/12/2022. 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. M.P. Rahurkar (Steno G-1)
Court Name	-	Smt. S. P. Ponkshe, Addl.Sessions Judge,Pune.
Date of Order	-	19/12/2022
Order dictated on	-	19/12/2022
Order transcribed on	-	19/12/2022
Order signed by P.O.	-	20/12/2022
Uploaded on	-	21/12/2022