

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. 645/2021 registered with Bharati Vidyapeeth police station for the offences under Sections 354 of Indian Penal Code and under Sections 8,12 of 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] It is argued by Ld. Advocate for the applicant that the victim is 15 years old. FIR has been lodged on 15.09.2021 and on the same day accused was arrested. Informant is mother of the victim. In respect of the allegations against the applicant there are contradictory statements. The victim was not willing to go along with her parents. It was love affair. Hence, prayed for allowing the application.

5] Ld. Spl. P.P. has objected application and urged that there is no love affair. Investigation is in progress. Considering act of the

accused, she has prayed for rejection of the application.

6] It indicates from FIR that on 14.09.2021 the victim who is daughter of the informant did not find in the home since 3.30 p.m. Mother and father searched the victim but she did not find. They found mobile phone of the victim and wherein, they found one mobile number dialed by the victim. Hence, informant gave phone call on that number and it was picked up by unknown person and he told his name as Vaibhav Tandale i.e. present applicant. Upon asking about the victim to him, he told that he would come to them with the victim. They waited but the victim and the applicant did not come. Therefore, the informant gave phone call from different mobile number to the applicant. He called mother of the victim at C'Lai world. Accordingly, informant, her brother, husband went there. Victim and the applicant found opposite to Hotel Saurabh. The victim informed that applicant and the victim known to each other since last 2 months and applicant called the victim at his room at 2.00 p.m. The applicant pushed the victim down and pressed her chest and kissed her. Accordingly, mother has lodged report.

7] It appears that the victim has refused for medical examination. Statement of the victim discloses that the applicant called the victim and accordingly, she went at the flat of the applicant. The applicant pushed down the victim and pressed her chest and kissed her. Thereafter, the victim opposed to the applicant and she remained there with the applicant and they were chatting.

After receiving phone call from mother of the victim, both were scared. The applicant took the victim opposite to Saurav Hotel and at that time, her father and relatives were giving phone calls but he did not pick up the phone calls. They sat opposite to Hotel Saurav and they were thinking what to do and chatting with each other.

8] Thus, from the statement of the victim, prima facie it discloses that the applicant and the victim were friends and at her own she went at the flat of the applicant. The victim is 15 years old. Thus, her age is of understanding age to know the consequences of her acts. The applicant is 24 years old. He is in his early 20's deserves to get employment and to plan, stabilize and secure his future. The victim herself left the house of her parents and joined to the applicant. Considering her age of understanding, it is a fit case to grant bail to the applicant. It is not justifiable to keep the applicant behind bars for unknown period. Therefore, application is to be allowed by imposing stringent conditions upon the applicant.

ORDER

- 1] The application is allowed.
- 2] The applicant **Vaibhav Gorakh Tandale** shall be released on bail upon furnishing P.R. bond in the sum of Rs.20,000/- with one or two sureties in the like amount.
- 3] The applicant shall attend concerned police station on every Monday 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 pressurize the victim, informant and family members and witnesses and shall not indulge in any offence.
- 5] The applicant shall not contact with the victim and family members, in any manner.
- 6] The applicant shall not confront to the victim and not to enter in the area where the victim is residing
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave The State of Maharashtra without prior permission of this Court.
- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.
Date – 08/10/2021.

(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	- 08.10.2021
Order dictated on	- 08.10.2021
Order transcribed on	- 09.10.2021
Order signed by P.O.	- 09.10.2021
Uploaded on	- 09.10.2021