

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. 441/2021 registered with Yerawada police station for the offences under Sections 376(2)((n),313 read with 34 of the Indian Penal Code and under Sections 4,6,8,12 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. The victim has filed say and she has given no objection for granting bail to the applicant.

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 incident occurred in the month of August-2018. There is delay in filing FIR. There was love affair of the applicant and the victim. The applicant is ready to marry with the victim. Age of the victim is of maturity and understanding age. Hence, prayed for allowing the application.

5] Ld. Spl.P.P. has objected this application and urged that at

the time of alleged incident the victim was 14 years old. The statement of the victim under Section 164 of Cr.P.C. yet to be recorded. Say filed by the victim is nothing but pressurizing the witness. Allegations are serious. The applicant has video recorded the incident and sent it to friend. Hence, prayed for rejection of the application.

6] It is the case of the prosecution that the victim was doing job in one shop Sagar Collection and the applicant was manager in the said shop. The victim and the applicant were friends. The applicant had started one shop by name Sagar Collection. He helped the victim in admission process of her college. She is studying in Nes Wadia College. On 18.07.2018 the applicant has expressed his love to the victim and gave proposal of marriage to her. Thereafter, they started chatting on whatsapp.

7] In October-2018 the applicant called the victim to her sister's house. In the house of sister who is co-accused the applicant has established sexual relations with the victim. Thereafter, the victim missed her periods and it was revealed that she was pregnant. The victim informed the said fact to the applicant and talked with sister of the applicant on phone. Then the applicant and his sister took the victim in the hospital where sister of the applicant told name of the victim falsely as 'Seema' to doctor. Doctor gave injection and two tablets to the victim and victim's abortion had taken place.

8] Thereafter, again in February-2021, the applicant took the victim at his friend's room where he established forcible sexual intercourse with the victim and video recorded the incident. Thereafter, he has given threats to the victim to make viral video and used to establish sexual relations at the said room at Mangadewadi. The victim again remained pregnant. The applicant gave her tablet and again abortion had been taken place. Thereafter, on 30.08.2021 friend of the victim told her that her video has been viral and it was on mobile phone.

9] It seems that alleged incident occurred in the year-2018. The victim is 19 years old at the time of lodging FIR on 31.08.2021. It appears prima facie that this applicant and the victim were knowing each other and they developed their friendship and they were chatting on the phone. In October-2018 the applicant called the victim and established sexual relations with her without her consent and she remained pregnant. Further it appears in February-2021 again the applicant called the victim and established forcible sexual relations with her and even further, he has video recorded their sexual relations and on that basis he was giving threats to the victim. Again the victim remained pregnant and abortion had been taken place as the applicant gave tablet to the victim. Further it seems that co-accused Aniket has received video of sexual relations of the victim and the applicant and it was sent by the present applicant.

10] Though, the victim has given no objection for releasing the

applicant on bail, it discloses prima facie from the statement of the victim that by keeping grudge in mind the applicant has forcibly established sexual relations with the victim, who is minor and video recorded their physical relations. He sent it to friend of the victim.

11] It appears that statement of the victim under Section 164 of Cr.P.C. yet to be recorded. Role of the present applicant discloses prima facie that he is main accused involved in commission of the alleged crime.

12] In this background, it is acceptable arguments of Ld. Spl.P.P. that filing of say by the victim is nothing but pressurizing the victim. Further, even say filed by the victim discloses that he has specifically stated that applicant should file undertaking that he will not harass the victim. The investigation is in progress and nature of the offence is serious. Considering punishment provided for the offences, it is not just and proper to release the applicant on bail. Therefore, application is to be rejected. With this, I proceed to pass the following order:

ORDER

The application is rejected.

Pune.
Date – 14/10/2021.

(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	-	14.10.2021
Order directly dictated and typed on	-	14.10.2021
Order signed by P.O.	-	21.10.2021
Uploaded on	-	21.10.2021