

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. 645/2022 registered with Pimpri police station for the offences punishable under Sections 377 of the Indian Penal Code and under Sections 3(b), 4, 5(m), 6, 8 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 resisted this 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 indicates from FIR that mother of the victim boy has lodged report against the applicant on 04.08.2022. The victim boy is aged 10 years. On 03.08.2022 the informant returned from her job at around 5.45 p.m. Her two daughters and the victim boy were playing in the house. At around 6.00 p.m. her son went to play as per routine near public toilet and at around 6.30 p.m. he returned back and he was crying. The informant had taken the victim boy near to her and asked what happened but he was not ready to tell anything. After giving understanding to him and by giving assurance by the mother that she would not tell anything to anyone, the victim boy narrated

the incident. He told that when he was playing with Chikya near bathroom, Shubham Shinde and Swanil Shinde called him near rickshaw. Swapnil Shinde i.e. present applicant asked him to sit in the autorickshaw and he removed Burmuda pant of the victim boy and caught hold his legs and hands. The applicant and Shubham both inserted their fingers in his anus and at that time he was shouting and crying. Some boys from the lane came there and thereafter, present applicant and Shubham leave the victim boy and ran to his house.

5] FIR further indicates that after hearing the incident, the informant annoyed and took the victim boy at the house of Shubham and asked about the incident to mother of Shubham. Then mother of Shubham started bearing him. Shubham got angry and beat the victim boy. The informant was trying to rescue him and at that time, Shubham beat the informant also. Thereafter, the informant told about the incident to her husband and they came to police station and lodged report against the present applicant and Shubham Shinde.

6] Statement of the victim boy discloses that the victim boy has specifically stated the act committed by Shubham Shinde and the present applicant. Thus, there are specific allegations against the present applicant in respect of commission of alleged offences. Medical examination report of the victim boy discloses that he was examined by the doctor on 04.08.2022 and the victim boy narrated history to the doctor that the victim was playing. Both the accused board the victim into autorickshaw and removed his clothes. Both accused inserted their fingers into victim's anus.

7] Thus, prima facie there is sufficient material against the present applicant in respect of commission of alleged offences. Nature of the offence is serious. The victim boy is only 10 years old. Arguments in respect of false implication of the applicant on account of family disputes without any sufficient material before the Court cannot be accepted. The investigation is in progress and FIR specifically discloses names of the present applicant and co-accused. Therefore, in such facts and circumstances, and in view of serious nature of the offence, it is not just and proper to release the applicant on bail. Therefore, the 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 accordingly.

Pune.
Date – 17/09/2022.

(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	- 17.09.2022
Order dictated on	- 17.09.2022
Order transcribed on	- 17.09.2022
Order signed by P.O.	- 22.09.2022
Uploaded on	- 22.09.2022