

ORDER BELOW EXH.1

(Mahadev Dinesh Bhadakwad V/s. State of Maharashtra)

1] Perused application and say. Heard Advocate for applicant and APP for the State. Notice issued to first informant and perused written notes of argument filed by first informant.

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.505/2020 registered at Dehuroad Police Station for the offence punishable under sections 376, 354, 506, 323 of the Indian Penal Code and under sections 4,6,8 of the Protection of Children from Sexual Offences Act, 2012. Medical officer Smt. Adabe lodged report stating that wife of applicant approached her when she was on duty and informed that applicant sexually assaulted her daughter from first husband, in that regard, offence was registered in Hadapsar police station and applicant was in jail for about 2 years. When he was released from jail they started living together. Victim is another daughter of applicant and she is aged about 11 years and she informed on 21.6.2020 that applicant used to press her chest, used to remove her salwar and used to do fingering in her vagina when nobody was in house, he used to threaten her about not to disclose incident to anyone. Act was committed by applicant for about 5 to 6 months.

3] According to applicant he is falsely implicated in this matter. He is doing business and has knowledge of his responsibility. He is looking after all his family members. Victim is tutored by her mother to lodge false report. There is delay of about 6 months in lodging report. In Special Case No. 129/2014 witnesses did not support prosecution case and applicant was acquitted, thereafter he is deliberately involved in this offence. Investigation is practically over. He is earning member of family. He is permanently

resident of Dehuroad, Haveli, 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. Statement of victim u/s. 164 of Cr.P.C. is yet not recorded. Applicant is father of victim, so there is possibility of repeating offence and possibility of tampering prosecution evidence by giving threat and pressure to victim and witnesses. So, they prayed to reject the application.

5] Allegations against the applicant are serious. From statement of victim role attributed to applicant can be gathered. Applicant is father of victim and she alleged that when there was nobody in the house applicant used to press her chest, remove her pant and used to insert his finger in her vagina. He beat her when incident was disclosed to her mother. Advocate of applicant submitted that previously similar allegations were made against applicant in respect of another daughter of his wife from first husband. Applicant is acquitted in previous case under Protection of Children from Sexual Offences Act and later on, they all started residing together and by making such type of allegations he again falsely involved.

6] In this matter, there is Medical Certificate of victim in which she gave similar history of fingering and history of penetrative vaginal oral anal intercourse. Doctor opined that there is evidence of vaginal penetration and no any genital injuries, but possibilities of sexual assault cannot be ruled out with evidence of body injury explained. Police papers prima facie shows involvement of applicant in the offence. Considering relationship and age of victim, there is possibility of tampering prosecution evidence by giving threat and pressure to victim and witnesses. Investigation is at initial stage.

Statement of victim u/s. 164 of C.r.P.C. is yet not recorded. Therefore, due to gravity of offence, at this stage, it is not proper to release the applicant on bail. Therefore, application deserves to be rejected with following order;

ORDER

Application is rejected.

Sd/-

Pune.

Date – 24.7.2020.

(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	- Sau. Arya Nikam (Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 24.7.2020.
Order signed by P.O.	- 24.7.2020.
Order uploaded on	- 27.7.2020.