

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and APP for the State.

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. 1843/2020 registered at Yerwada Police Station for the offence punishable under sections 376(2)(n), 506 of the Indian Penal Code and under sections 3, 4, 5(j-2)(l) & 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that victim aged about 17 years lodged report stating that she is acquainted with applicant. They were talking with each other. On 02-02-2020 at the time of marriage of their relative, applicant proposed her and demanded sexual intercourse, she refused but applicant committed sexual intercourse with her and asked her not to disclose incident to anyone. Act was repeated under pretext of marriage as a result of which victim became pregnant. Later on applicant avoided victim.

3] According to applicant he is falsely implicated in this matter. It is a case of love affair. Victim is 17 years old therefore, she knows the consequences of the act. There was no force from the applicant. Applicant is 23 years old and doing business. His family members are dependent on him. He is permanently residing at Nirpuda, Dist.Bagpat, Delhi. 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. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. Applicant is permanent residence of Nirpuda, Dist.Bagpat, Delhi. There is possibility of the absconding of applicant. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From statement of victim role attributed to applicant can be gathered. It revealed that due to friendship victim and applicant were talking each other. At the time of marriage ceremony of relative applicant committed sexual intercourse with victim and act was repeated under pretext of marriage, victim became pregnant her. Victim is 17 years old and applicant is 23 years old. Victim has attained age of sufficient maturity and knows the consequences of act.

6] In this context it is necessary to rely on authority cited in **Bail Application No. 2632/2019 between Anirudha Radheshyam Yadav V/s. The State of Maharashtra, 2020 CLU 500** in which it is observed that so far as offences punishable under Section 4, 6, 8 of Protection of Children from Sexual Offences Act is concerned, it may be stated that the provisions of POCSO Act are, though, stringent in nature, would not deter the Court to grant or refuse bail in order to secure the ends of justice. The conduct of the victim is indicative of the fact that she had left the home of her parents by her own will and that she had surrendered to the physical desires of the applicant out of her love and affection for him. She has sufficient knowledge and capacity to know full import of what she was doing and had only thereafter voluntarily joined the complainant. Due to peculiar facts of case bail was granted to applicant. In above cited ruling, victim was 14 years 11 month old and applicant was 25 years old. From statement of victim it appears that she left the house secretly with her belongings and travelled with applicant.

7] Ratio laid down in above cited ruling is noted. Medical report of victim shows history of love affair and consensual sexual intercourse. Victim did not complain since beginning. There are no injuries on any part of body of victim. Only after detecting pregnancy report is filed. These are mitigating

circumstances. Moreover, investigation is practically over. Personal custody of applicant is not required. He has no criminal antecedents. He is only 23 years old and doing business and his family members are depending on him. He is permanently residing at Nirpuda, Dist.Bagpat, Delhi. No purpose would serve by keeping the applicant behind bar for unknown period. Due to all above reasons application deserves to be allowed with following order -

ORDER

- 1] The application is allowed.
- 2] The applicant **Niraj Satpal Dhingan** be released on executing P.R. bond of Rs.30,000/- with one or two solvent sureties in the like amount. One local surety be furnished.
- 3] The applicant shall not tamper the prosecution evidence in any manner.
- 4] The applicant shall attend Yerwada Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till the charge-sheet is filed.
- 5] The applicant shall not harass, threat and pressurize the victim.
- 6] The applicant shall co-operate investigating machinery as and when required.
- 7] Prior to furnishing surety, the applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.
- 8] The applicants shall submit list of three blood relatives with their detail residential addresses and addresses of their place of work.

Sd/-xxx

Pune.
Date – 21-09-2020.

(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	- Kum. Gulagi P.S. (Stenographer G-3)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 21.09.2020
Order signed by P.O.	- 28.09.2020
Order uploaded on	- 28.09.2020