

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and A.P.P 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. 421/19 registered at Sahkarnagar Police Station for the offence punishable under section 363, 376 of the Indian Penal Code and under section 3, 4, 5(J) (2), 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim aged about 17 years lodged report of her missing. During investigation and after recording statement of victim it revealed that she was acquainted with applicant since two years. There was love affair between them. They were meeting and talking with each other. On 29.04.2019, Applicant took victim for wandering at one hotel and in room he forcibly committed sexual intercourse with her. As a result of which victim missed her menstrual cycle and after examination it revealed that she became pregnant. Thereafter applicant took her at Alandi and they resided at Alandi at the house his friend for two days where applicant committed sexual intercourse with 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. Victim left the house at her own accord. Applicant is 21 years old and student. If he remained in jail for unknown period his career will spoil. Previously he approached before lower court bail was granted to him. At that time victim filed her affidavit and did not make complaint against applicant. Investigation is practically over. Applicant is resident His family members are dependent on him. He is permanently residing at Hadapsar, Pune. He

has no criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] A.P.P. and I.O. objected this application on the ground that investigation is in progress. Victim is minor. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. 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 love affair victim and applicant were meeting each other and they went to Alandi and resided in room for two days. Applicant committed sexual intercourse with victim. As a result of which she became pregnant. Victim is 17 years old and applicant is 21 years old. Victim has attained age of sufficient maturity and knows the consequences of act.

6] In this context Advocate of applicant authorities cited in ***Sunil Mahadev Patil Vs. State of Maharashtra reported in 2016 All MR (Cri.) 1712***, in which it is observed that if statement of prosecutrix and witnesses shows that they were in love relationship with each other they eloped and went to temple and performed marriage, they started residing together in the house of relative then there are mitigating circumstances. Moreover, it is observed that factor i.e. age of prosecutrix, whether act is violent, whether there are antecedents or not, whether offender is capable of repeating the act or not, whether there is likelihood of threats or intimidation if at all the boy is released, whether chance of tampering with material witnesses and age of the applicant and his employment and plan, stabilize and secure his future are to be taken into consideration while deciding bail application, when boy

and minor girl are in love with each other. 2} *Satyam Ramchandra Fulore V/s. The State of Maharashtra reported in 2015 All MR (Cri.) 2785* in which it is observed that victim is 16 years and attended age of understanding. Accused cannot be said to have taken victim away from lawful guardianship. It is proper to grant bail to accused.

7] Ratios laid down in above cited ruling is noted. Applicant filed on record copy of marriage certificate between him and victim which was performed on 31/07/2019, copy of affidavit of victim which shows that she herself left the house for marrying with applicant. Medical papers of victim shows history of love affair and history consensual tentative vaginal intercourse. There are no injuries on body of victim. Victim did not complain since beginning. These are mitigating circumstances. Moreover, considering nature of offence and allegations, investigation is practically over. Personal custody of applicant is not required. He has no criminal antecedents. He is only 21 years old and student. His career will spoil if remained in jail for unknown period He is permanently residing at Hadapsar, Pune. 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 Sandip Gorakh Prakshale be released on executing P.R. bond of Rs.30,000/- with one or two solvent sureties in the like amount.
- 3] The applicant shall not tamper the prosecution evidence in any manner.
- 4] The applicant shall attend Sahakarnagar 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.

Pune.
Date – 29/08/2019

(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	- R.L. Bhunyar(Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 29.8.2019.
Order signed by P.O.	- 30.8.2019.
Order uploaded on	- 31.8.2019.