

ORDER BELOW EXH.1

1] This is an application for bail filed by the applicant Adarsh Santosh Waghmare u/s. 439 of Code of Criminal Procedure in connection with CR No. 168/2021 registered with Dehuroad police station for the offences p/u/s. 376, 384, 109, 120(B) of Indian Penal Code and p/u/s. 4, 8, 17 of 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 vide Exh.3 and strongly opposed this bail application.

3] The first informant filed her say and opposed this application.

4] Heard Ld. Advocate for the applicant and Ld. APP for the State. Perused application, say filed and charge-sheet. Perused written notes of arguments tendered by the first informant.

5] It is the case of prosecution that, the victim is 14 years girl. Accused No.3 had sent friend request to the victim on *Instagram*. She introduced present applicant (accused No.2) and accused No.1 to the victim and showed the victim that they are her friends. Accused No.3 informed the victim that, Hammers Cafe is in partnership and accused No.1 and 2 are the partners. Accused No.1 pretended that, he had fallen in love with the victim and thereafter they started extracting money from the victim. Accused No.1 and 2 induced and threatened

victim to deliver cash amount and ornaments by committing theft in her house. The victim paid them cash of Rs.40 to Rs.45 thousand in January and February 2021 and also handed over gold ornaments by committing theft in the house. Accused No.1 and 2 were pressurising the victim to commit theft of ornaments for fulfilment of their demand, otherwise threatened that, accused No.1 may commit suicide putting blame on the victim. Further, there are allegations against accused No.1 in respect of commission of penetrative sexual assault on the victim. Further allegations are that, accused No.1 and present applicant are from *Sonya Kalbhor Gang* and *Rawan Gang* and they constantly threatened victim with the name of said gangster.

6] Heard learned advocate for the applicant. It is urged by learned advocate for the applicant that, there are no allegations against this applicant regarding sexual assault. Recovery has already been done. Alleged role of this applicant is of giving threats to the victim. There are no previous criminal antecedents and ornaments were not handed over to this applicant. Accused No. 3 has already been released on bail. Hence, prayed for bail to this applicant on parity ground. There is delay of one week in lodging the FIR. Hence, prayed for allowing the application.

7] Learned APP argued that, parity ground is not available to this accused. Allegations are made against the accused under Section 384 of IPC along with Section 17 of POCSO Act. In this crime, the victim's age is 14 years. Therefore, conduct of the applicant is necessary to take into consideration. The role of present applicant is different than that of released accused No.3. Mere filing of charge-sheet is no

ground for releasing the applicant. Statement of the victim is necessary to take into consideration. Hence, prayed for rejection of the application.

8] Admittedly, accused No.3 Rutuja who introduced accused No.1 Pranav and present applicant to the victim, has been released on bail on 13/05/2021. It seems that, she has introduced her other friends i.e. present applicant and accused No.1 to the victim. It reveals from the statement of the victim recorded under Section 164 of Cr.P.C. and her statement recorded by the police that, applicant and accused No.1 were repeatedly threatening her and demanding gold ornaments and cash from her and compelling her to commit theft in the house. Further, it reveals that, accused No.1 handed over ornaments stolen by the victim to this applicant for sale. The victim was under pressure and due to threats, she has given messages that, she was ready to give money and laptop to accused No.1. Thus, prima facie at this stage, it reveals that, the applicant is directly involved in commission of present crime along with accused No.1. The victim is only 14 years old girl. It appears from the documents filed along with charge-sheet that, role of present applicant is different than role of released accused No.3 Rutuja. Therefore, ground of parity claimed by this applicant is not available to the applicant. Prima facie it seems that, the applicant is involved in commission of offence of extortion and it discloses further that, he has abetted in commission of crime punishable under POCSO Act. In the facts and circumstances considering nature of allegations and prima facie involvement in commission of offence, it is not desirable to grant bail to the applicant. Therefore, application is to be rejected. With this, I proceed to pass the following order.

ORDER

- 1] The Criminal Bail Application No. 3081/2021 is rejected.
- 2] The Criminal Bail Application No.3081/2021 stands disposed of.

sd/-xxx

[S.P. Ponkshe]

Pune.

Date : 13/07/2021.

Additional 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	-	Shri. D. L. Gudde, Stenographer- Grade I
Court Name	-	Smt. S. P. Ponkshe, Addl.Sessions Judge,Pune.
Date of Order	-	13.07.2021.
Order dictated on	-	13.072021.
Order transcribed on	-	14.07.2021.
Order checked and signed by P.O.	-	15.07.2021.
Uploaded on	-	15.07.2021.