

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.542/2020 registered at Shikrapur Police Station for the offences punishable under sections 363, 366, 376, 34, 120-B of Indian Penal Code and S. 4,8,12 of Protection of Children from Sexual Offences Act. Victim aged about 18 years 2 months lodged report stating that in April-2019 her maternal uncle i.e. present applicant created intimacy with her, proposed her when she was residing with her grandmother. Since December-2019 applicant repeatedly committed sexual intercourse with her and threatened her that he would not allow her to marry with someone else. On 26.7.2020 victim learnt that applicant was about to do something bad to his life if she would not meet him. Therefore, on 28.7.2020 victim made phone call to applicant who came along with black coloured four wheeler and gave her promise of marriage, she refused, at that time other accused Ganesh threatened to kill her parents if she would not come with them. Present applicant and accused Ganesh forcibly made victim to sit in vehicle. Present applicant, accused Ganesh forcibly took victim in his house and accused Ganesh told her that accused Mayuri is his sister and asked her to tell in police station as narrated by accused Mayuri. Accused Mayuri told victim to state before police that her parents are detaining her, not allowing her to take education etc. Later on, when they were roaming from vehicle, accused Mayuri took victim to Hadapsar police station and insisted her

to tell otherwise than actual act, thereafter different four wheeler vehicles were coming near her house in order to pressurize victim and her family members. Report is filed against present applicant and others and thereafter, section addition report u/s. 212, 120-B of Indian Penal Code is filed by stating that there is conspiracy between present applicant and other accused in kidnapping, abducting and inducing minor victim and to compel her for marriage and main accused repeatedly committed sexual intercourse with her.

3] According to applicant he is falsely implicated in this matter. There was love affair between victim and applicant. Victim is almost 17 years old therefore, she knows the consequences of the act. She never raised hue and cry. Co-accused are released on bail so there is ground of parity. Investigation is practically over. Personal custody of applicant not required. He is 33 years old and agriculturist. His family members are depending on him. He is permanently residing at Parner, Dist-Ahmednagr. 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 was absconded since registration of offence. Applicant is relative of victim. He is already married person. In spite of it, he repeatedly committed sexual intercourse with minor victim. 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. From statement of first informant i.e. victim role attributed to applicant can be gathered. It is alleged that applicant is their relative and in April-2019 under pretext of love affair applicant tried to create intimacy with her. He was taking her with him at different places. In December-2019 he firstly kept sexual relation with her and then repeated the act by taking her at different places. Initially considering her future no report was lodged, but later on applicant threatened victim to do bad to his life and insisted her to meet him. He and other accused forcibly took victim from vehicle by giving threats. They insisted victim to tell different story in police station. Advocate of applicant submitted that it is case of love affair. Further, co-accused are released on bail. He filed on record copy of Anticipatory Bail Application No. 4441/2020 of Hon'ble High Court granting anticipatory bail to accused Mayuri, copy of bail application of accused Ganesh and accused Nikhil Dhumal and Sonubhau Pawar. However, role attributed to present applicant is different as material allegations are against present applicant. There are allegations of repeated sexual intercourse by applicant with minor victim. Statement of victim u/s. 164 of Cr.P.C. show similar allegations against present applicant. In that statement, she stated that though she resisted, applicant forcibly committed sexual intercourse with her, took her nude photographs and threatened her to defame her by viralling photographs. In medical report, she gave similar history and Doctor opined that as per history and medical examination the sexual offence may have occurred.

6] Moreover, applicant is recently arrested on 26.3.2021 and

police papers shows that since the date of registration of offence applicant was absconded. Moreover, applicant is relative i.e. maternal uncle of victim. He is already married person and due to his act with minor victim, there is gravity of offence. As investigation is going on, applicant will definitely pressurize victim and witnesses as he is in dominating and influential position over victim. Further, he is resident of Dist-Ahmednagar and there is further possibility of his absconding. So, at this initial stage, when investigation is still in progress, due to gravity of offence, it is not proper to release applicant on bail. Hence, application deserves to be rejected with following order:

ORDER

Application is rejected.

Pune.
Date – 26.4.2021.

(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	- 26.4.2021.
Order signed by P.O.	- 28.4.2021.
Order uploaded on	- 28.4.2021.