

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. 73/2021 registered at Mundhwa Police Station for the offence punishable under section 354 of the Indian Penal Code and under section 8 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim aged about 10 years lodged report stating that on 26.2.2021 at 9.00 pm when they were chatting in the house, victim told that their neighbourer uncle i.e. applicant touched her inappropriately by moving his hand from her chest and private part when she was playing cycle in the morning along with her friend. Applicant sat on backside seat of cycle and did inappropriate touch to her. Thereafter, first informant narrated incident to her husband and then they went to the house of applicant about asking the reason of act. Applicant quarreled with them.

3] According to applicant he is falsely implicated in this matter. He never committed such type of offence. Moreover, investigation is practically over. He is 60 years old. He belongs to poor family, suffering from high blood pressure and old aged ailments. There is civil dispute between first informant and applicant so he is falsely involved. He is rickshaw driver. His family members are depending on him. He is permanently residing at Mundhwa, Dist-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. In view of age of victim she is in frightened condition. They are neighbours, so there is 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 first informant and victim role attributed to applicant can be gathered. Victim specifically narrated about act of the applicant that when she was playing cycle applicant sat on back seat, moved his hand from chest and private part. Previously also he inappropriately touched her. She disclosed incident to her friend and there is statement of her friend, prima facie corroborative in nature. There are statements of other witnesses about the incident and on its basis prima, facie involvement of applicant in the offence can be gathered. Moreover, investigation is still in progress. There is nothing on record to show that statement of victim u/s. 164 of Cr.P.C. is recorded. No documentary evidence about old aged diseases of applicant is filed on record. Moreover, no documentary evidence about civil dispute between both families are filed on record. Victim is only 10 years old and applicant is 60 years old. Applicant is in dominating position over victim. They are neighbourers, so there is every possibility of tampering prosecution evidence by giving threat and pressure to victim and witnesses. So at this initial stage, when investigation is going on, 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 – 20.3.2021.

(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	- Arya Nikam
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 20.3.2021.
Order signed by P.O.	- 20.3.2021.
Order uploaded on	- 22.3.2021.