

ORDER BELOW EXH.1

1] This is an application for bail filed by the applicant u/s. 439 of Code of Criminal Procedure in connection with CR No.305/2021 registered with Hadapsar police station for the offences p/u/s. 376,363,366 of Indian Penal Code and p/u/s. 4, 8, 12 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 and opposed this application. The informant has filed say, and she has also opposed the bail.

3] Heard Ld. Advocate for the applicant and Ld. APP for the State at length. Perused application, say filed by the prosecution, say filed by the informant and police papers.

4] The Ld. Advocate for the applicant has argued that father of the victim had filed report u/s 363 of IPC. The victim is 16 years old and the applicant is 25 years old. It is the case of love affair case. Mobile has been recovered. The applicant is ready to marry with the victim and prayed for allowing the application. Ld. Advocate for the applicant has placed in reliance in

1) Aniruddha Yadav V/s. State of Maharashtra Reported in 2020 All MR (Criminal 1351)

2) 2020 All MR(Cri) 2921 Ankush Subhash @ Nannu Bhisade V/s/ The State of Maharashtra

3) 2016 All MR(Cri) 1712 Sunil Mahadev Patil V/s. The State of Maharashtra.

5] It is argued by Ld. APP that the applicant was friend of the father of the victim. Conduct of the applicant is necessary to consider. Investigation is in progress. The applicant and the victim have roamed at various places. Say filed by the victim is necessary to consider. She has prayed for rejection of the application.

6] It indicates from FIR that father of the victim has lodged report as the victim did not return back from her friend's house. Mobile phone of the victim was found and it was revealed that the victim elope with the applicant. It appears from the statement of the victim that, the applicant induced the victim and they eloped and went at various places and established sexual relations with the victim the victim and the applicant went near Aurangabad, Beed, Usmanabad, Haidrabad, Tulajapur and resided together and lastly they went at Rajasthan. They brought back at Hadapsar on 26.06.2021.

7] It seems from history narrated to the doctor that, the applicant and the victim were in love relationship and they had multiple consensual sexual intercourse. It seems from say filed by the victim that, the applicant compelled her to elope with him. He said her, "आली नाहीस तर फाशी घेईन." It seems that the victim went at various places along with the applicant. The applicant did not allow her to speak on phone and beat her under the influence of liquor. It appears further that, the victim is having fear in mind that if the applicant released on bail, he will harass her.

8] It seems that the victim is minor. The applicant was friend of her father. The victim was calling the applicant as 'Lakhan dada'. The applicant said the victim to elope with him and said if she refused the same, he will hang himself. It appears that in this background the victim has eloped with the applicant. Consent of the minor for sexual intercourse is immaterial. Considering say filed by the informant and yet investigation is in progress at this stage, it is not just and proper to release the applicant on bail. Nature of the offence is serious. Hence, at this stage of investigation, application is to be rejected, with this I proceed to pass the following order:

ORDER

- 1] The Cri. Bail Application no.4208/2021 is rejected.
- 2] The Cri. Bail Application no. 4208/2021 accordingly disposed of.

Pune.
Date – 06.8.2021.

(S.P. Ponkshe)
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 (Stenographer G-1)
Court Name	-	Smt. S. P. Ponkshe, Addl.Sessions Judge,Pune.
Date of Order	-	06.08.2021.
Order dictated on	-	06.08.2021.
Order checked signed by P.O.	-	16.08.2021.
Uploaded on	-	16.08.2021.