

**ORDER BELOW EXH.1**

(Kantabai Ramakant Gurav V/s. State of Maharashtra)

1] Perused application, say and documents. Heard Advocate for applicant and APP for State.

2] This is first bail application filed under section 438 of Cr.P.C. by applicant in respect of apprehension of her arrest in C.R. no. 749/2020 registered at Wakad Police Station for the offence punishable under section 376(3), 506, 34 of Indian Penal Code, under section 3, 4 and 5 of Protection of Children from Sexual Offences Act. It is alleged that first informant i.e. victim aged about 15 years 2 months lodged report stating that main accused is a son of present applicant, when victim was studying in 8<sup>th</sup> Std, main accused was following her and proposed her but she went away. Thereafter, main accused developed friendship with victim, used to talk with her and proposed her for marriage. Later on, when victim was alone in house, main accused entered in her house and forcibly committed sexual intercourse with her by giving threats to kill her brother and mother. Act was repeated and victim became pregnant. Main accused and applicant convinced victim and her family members for marriage of victim and main accused and accordingly marriage was performed, main accused repeatedly committed forcible sexual intercourse with victim, victim delivered child. While residing with main accused present applicant harassed victim and also demanded money from her mother.

3] According to applicant she is falsely implicated in this case. She is involved only due to fact that she is mother of main accused. She never ill-treated victim and demanded money. No prima-facie case is made out against her. It is case of love affair between victim and main accused. Due to domestic quarrel she is falsely implicated. She is 42 years old and housewife.

She is resident of Wagholi, Pune. She has no criminal antecedents. Due to levelling of offences punishable under section 376(3) r/w 34 of Indian Penal Code, under section 4 of POCSO Act, there is apprehension in her mind about arrest. So, she prayed to grant protection under section 438 of Code of Criminal Procedure.

4] APP objected this application on the ground that investigation is in progress. Charge-sheet is filed and role of present applicant is reflected from police papers. Material information in that regard is to be gathered, so custodial interrogation with applicant is required. Being mother applicant will pressurize victim and witnesses. There is possibility of tampering the prosecution evidence. So, she prayed to reject the application.

5] From First Information Report role attributed to applicant can be gathered. There are allegations of harassing victim by present applicant and also of demand of money. Prima facie it appears that material allegations are against main accused about repeated forcible sexual intercourse with victim and marriage with minor victim. Advocate of applicant submitted that it is case of love affair between main accused and victim. From statement of victim it prima facie appears that main accused was sending money in her school account for her expenses. They were talking with each other. Main accused is arrested and interrogated. Present applicant is 42 years old and housewife. Now, charge-sheet is filed after completion of investigation. Therefore, considering allegations custodial interrogation with applicant is not required. She has no criminal antecedents and she is permanent residence of Wagholi, Pune. There is nothing on record to show that applicant breached conditions imposed at the time of granting ad-interim protection. Due to nature of offences, apprehension in her mind is reasonable. Therefore, in view of role attributed to her, it is

proper to confirm ad-interim protection granted to applicant with certain modification. Hence, application deserves to be allowed with following order -

**ORDER**

1] Application is allowed.

2] The order dated 01.12.2020 below Exh.4 is hereby made absolute as follows -

[i] In the event of arrest, applicant Kantabai Ramakant Gurav in Crime no. 749/2020 registered at Wakad Police Station, be released on executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount.

[ii] The applicant shall attend Wakad police station in fortnight on Monday between 11.00 am to 2.00 pm till 2 months.

[iii] The applicant shall not tamper the prosecution evidence in any manner.

[iv] The applicant shall not harass, threat and pressurize victim and witnesses.

[v] The applicant shall co-operate investigating machinery as and when required.

[vi] The applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.

3] Inform to concerned Police Station accordingly.

Pune.  
Date – 04.01.2021.

(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.

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|----------------------|---------------------------------------------|
| Name of Steno        | - Arya Nikam (Stenographer G-1)             |
| Court Name           | - Smt. R.V.Adone, Addl.Sessions Judge,Pune. |
| Date of Order        | - 04.01.2021.                               |
| Order signed by P.O. | - 04.01.2021.                               |
| Order uploaded on    | - 05.01.2021.                               |