

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. 69/2023 registered with Jejuri police station for the offences punishable under Sections 354 of the Indian Penal Code and under Sections 8,12 of the Protection of Children from Sexual Offences Act. [Hereinafter the Indian Penal Code referred to as “IPC” and the 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 bail application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and police papers.

4] It is argued by Ld. Advocate for the applicant that the applicant has falsely implicated in this case. There was dispute on account of parking the carts for sale of the fruits. The mother of the applicant lodged N.C. regarding the incident. Hence, prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that the N.C. was registered afterthought on next day of the lodging of the report. The investigation is in progress. The applicant was unknown. Hence, prayed for rejection of the application.

6] The mother of the victim has a lodged on 20.02.2023. The victim is aged 11 years. On 20.02.2023 at around 1.35 p.m. the victim and her grandfather came to home along with fruit carat and the victim started crying loudly. Upon asking, she disclosed to her mother that in front of Jijamata High School, she was collecting empty carat along with her grandfather and she sat on the vehicle of her grandfather and at that time, one unknown had come near to her to give one empty carat and put it on her thigh and pressed her breast by both hands. Then accordingly, the report was lodged against the applicant as the informant immediately called her husband and had taken the victim opposite to Jijamata High School and with the help of the victim searched the said unknown person. They brought the applicant to Jejuri Police Station and before the police, the applicant disclosed his name, age and address.

7] Perused statement of the victim and she has reiterated the incident committed by the applicant with her. Further, she disclosed that she went along with her father and others at the place where the incident took place and she saw the said person was sitting and she identified him as a person who committed the act with her and showed him to her father. Thereafter, her father, mother and grandfather apprehended the applicant and took him to Jejuri Police Station.

8] Prima facie it reveals that there is sufficient evidence regarding commission of sexual assault by the applicant on the minor victim. The applicant is 35 years old. Further, it reveals that the

investigation is in progress. It seems that the mother of the applicant lodged N.C. against three Pawar that they beat her son. The N.C. seems to be registered on next day. It seems that the parents and grandfather of the victim apprehended the applicant at that time and had taken to the police station. Therefore, the arguments on behalf of the applicant that there was dispute on account of the parking carts is not acceptable and hence, the N.C. filed on record is of no use while considering this bail application. Therefore, at this stage of the investigation, it is not just and proper to release the applicant on bail. Therefore, application is to be rejected. With this, I proceed to pass the following order:

ORDER

- 1] The application is rejected.
- 2] Bail application stands disposed of accordingly.

Pune.
Date – 09/03/2023.

(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	- Sau.S.V.Thakar (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 09.03.2023
Order dictated on	- 09.03.2023
Order transcribed on	- 09.03.2023
Order signed by P.O.	- 10.03.2023
Uploaded on	- 10.03.2023