

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. 165/2023 registered with Rajangaon MIDC police station for the offences punishable under Sections 363, 366, 376(2)(n) of the Indian Penal Code and under Sections 4, 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. The informant has filed say and she has 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] The victim aged 17 years and 8 months old. She has lodged a report against the applicant on 26.03.2023. The applicant is son of cousin paternal aunt of the victim. Since last one year the victim and the applicant are in love relationship. On 20.03.2023, the applicant came to the house of the victim, when she was alone and he told the victim that, they would elope and marry. The victim refused to go with the applicant. Then the applicant cut his hand by blade and told her that he would end of his life. Then, the victim went along with the applicant, on his motorcycle and she told him that they would go

to the hospital. Accordingly, they went to the hospital at Malan and treatment had been given to the applicant. Thereafter, they went in a lodge at Shikrapur near Chakan road. The applicant has established non-consensual sexual intercourse with the victim under pretext of the marriage. Thereafter, on 21.03.2023 they left the lodge and went to Shrigondha at the house of the friend of the applicant. They stayed there till 24.03.2023. Thereafter, on 24.03.2023 at 09:30 pm., the applicant dropped the victim in her house. Thereafter, the victim told the incident to her parents. The victim and her parents went to questioning the applicant and his parents. At that time, they refused to perform the marriage with the victim. Therefore, she has lodged a report against the applicant on 26.03.2023.

5] During her supplementary statement, the victim disclosed that even 3 months before the applicant established physical relations with her, in her house and he gave threats to the victim. Thereafter, repeatedly in the absence of the family members of the victim, the applicant has established physical relations with the victim. Further, she disclosed that they did not stay in the lodge at Shikrapur but they both stayed on the road, on the motorcycle. They did not get the room in the hotel Janta Palace for want of Adhar card.

6] The victim was examined by the doctor on 26.03.2023. She disclosed the history of love relationship and they had first consensual vaginal sexual intercourse at the victim's house. No history of physical assault. After that had multiple times established consensual vaginal sexual intercourse. She narrated that they both ran away from their

house and stayed at the house of the brother of the accused at Shrigonda. They brought by the police on 24.03.2023.

7] Ld. Advocate for the applicant has placed his reliance in -

i] Siddaruda @ Karna Vs. The state of Karnataka, reported in Live Law (SC) 170.

8] It is case of love affair of a boy and a girl. The victim had attained age of understanding and she is 17 years and 8 months old and had surrendered to the physical desires of the applicant out of her love and affection towards him. It is mitigating circumstance, considering the age group of the applicant and the victim. The victim is of understanding age and having knowledge of consequences of her act. The applicant is only 23 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

9] Thus, in the facts and circumstances, considering love relationship of the applicant and the victim and as there are no criminal antecedents against the applicant and no allegations of any violent act against the applicant, it is just and proper to release the applicant on bail. No doubt, minor's consent is immaterial, but conduct of the applicant and the victim is necessary to consider at this stage. Therefore, application is to be allowed by imposing stringent conditions upon the applicant. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Akshay Dadabhau Ranpise** shall be released on bail upon furnishing P.R. bond in the sum of Rs.50,000/- with surety in the like amount.
- 3] The applicant shall attend concerned police station on every Monday and Friday between 10.00 am to 11.00 am till filing of the charge-sheet.
- 4] The applicant shall not tamper with the prosecution evidence in any manner. He shall not pressurize the victim, informant and family members and witnesses and shall not indulge in any offence.
- 5] The applicant shall not contact with the victim and family members, in any manner.
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave India without prior permission of the Investigating Officer.
- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.
Date – 03/05/2023.

(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	- Nitin M. Shinde (Steno G-3)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 03.05.2023
Order dictated on	- 03.05.2023
Order transcribed on	- 03.05.2023
Order signed by P.O.	- 04.05.2023
Uploaded on	- 06.05.2023