

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. 106/2023 registered with Nigdi police station for the offences punishable under Sections 363, 376, 376(2)(j), 354-A(i)(ii) of the Indian Penal Code and under Sections 3,4,7,8,12 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 has given no objection for releasing the applicant on bail.

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 father of the victim has lodged a report under Section 363 of the I.P.C. The victim is 17 years old. On 22.02.2023, her son informed to the informant that the victim was not in the house and therefore, immediately, he returned to home from his centering job. He came to know that at around 1.00 p.m. the victim left the house without informing anyone by taking money and articles with her. The victim did not find. Hence, lodged a report on 23.02.2023.

5] On 28.03.2023, the statement of the victim was recorded. It

discloses that the applicant is neighbour of the victim and in the month of May-2018, she got acquainted with the applicant. On 13.10.2019, the applicant proposed her and their love affair started. In the month of March-2020, the applicant disclosed to the brother of the victim that he would marry to the victim. Thereafter, parents of the applicant had been in her house on 14.04.2020 and they made demand of her hand for their son. At that time, her mother refused.

6] Further, it discloses that thereafter, on 23.05.2020, the brother of the victim saw that the victim and the applicant were talking and he informed to the parents and in both families, dispute occurred. Six months, they were not talking. Thereafter, their love affair continued. In June-2022, the victim was alone in the house and the applicant established physical relations with her, though she was refusing. Thereafter, repeatedly, under the pretext of marriage, the applicant has established physical sexual intercourse with the victim forcibly. In the month of December-2022, she came to know that she was pregnant. Therefore, on 22.02.2023, under pretext of marriage the applicant had taken her at Solapur. They stayed in rented room. They disclosed everyone that they were married. Thereafter, on 06.03.2023, she came to know that she was 7 months pregnant. On 28.03.2023, police came and brought them to Nigdi Police Station.

7] Further, it seems that the victim has denied for her medical examination. Prima facie it appears that it is the case of love affair of the applicant and the victim and the victim is of understanding age to know the consequences of her act. She has become pregnant. It seems

that samples have been taken for DNA test. The informant has given no objection for granting the bail to the applicant. Thus, it is a case of love affair of a boy and a girl. The victim had attained age of understanding and she had surrendered to the physical desires of the applicant out of her love and affection towards him. It is mitigating circumstance considering 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 24 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

8] 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 **Lakhan Baliram Mhaske** 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.
- 6] The applicant shall not confront to the victim and not to enter in the area where the victim is residing.
- 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 – 02/05/2023.

(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	- Sau.S.V.Thakar (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	- 02.05.2023
Order dictated on	- 02.05.2023
Order transcribed on	- 02.05.2023
Order signed by P.O.	- 02.05.2023
Uploaded on	- 06.05.2023