

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. 293/2022 registered with Vishrantwadi police station for the offences punishable under Sections 354, 323, 504 of the Indian Penal Code and under Sections 8, 9(l)(n), 10 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. Perused documents tendered by the applicant including chats and text messages between the applicant and his wife and complaint given by the applicant to Vishrantwadi Police Station.

4] It is argued by Ld. Advocate for the applicant that, there is delay in lodging FIR and the informant is wife of the applicant. The informant has falsely made allegations against the applicant by suppressing the facts. In earlier complaint the informant has not disclosed the facts mentioned in the present report. There are whatsapp chats and NC on records which discloses the conduct of informant. The victim herself left the house. Principle in *Arnesh Kumar* judgment has not followed. The applicant in Professor and

received awards. There are no criminal antecedents. There is no question of tampering or hampering the evidence of prosecution. Hence, prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that, the victim is 10 years old and applicant is father of the victim. Supplementary statement is on record. Prima-facie there is sufficient material against the applicant. Investigation is in progress. Hence, prayed for rejection of the application.

6] Perused written notes of arguments tendered by Advocate for original complainant.

7] Case of the prosecution is that, the informant is wife of the applicant and the victim is daughter of the applicant aged 10 years. There are allegations against the applicant, that on 04/11/2022 the applicant called the victim near to him and he moved his tongue on lips of the victim and lifted her shirt and moved his hand on her back and therefore she dislike the applicant and even the applicant earlier, two to three times moved his leg on the leg of victim when she slept at night. Therefore, the informant left the house of applicant on 07/11/2022 along with her two children. Accordingly, the informant has lodged report on 22/11/2022.

8] Supplementary statement of the informant was recorded on 04/12/2022 and in the said statement she had stated that, the incident was occurred with her daughter on 30/10/2022 and she left

the house on 31/10/2022 and due to mental shock and pressure upon her she had stated the date of incident 06/11/2022 and stated the date 07/11/2022 as a date she left the house and it was incorrect.

9] Statement of the victim discloses that, she has reiterated the incident and she said that she did not like touch of her father. It appears that, the informant had lodged NC against the applicant on 31/10/2022 due to dispute between the applicant and the informant, who are husband and wife. It is pertinent to note that, basically the informant has lodged report on 22/11/2022 with regard to the incident dated 30/10/2022 which disclosed by her in her supplementary statement recorded on 04/12/2022. Thus, there is considerable unexplained delay in lodging the report.

10] Further prima-facie it discloses that, the alleged incident with the victim allegedly occurred on 30/10/2022. The informant had not disclosed the said incident while lodging NC against the applicant on 31/10/2022. The reason was best known to informant only. Further, on 15/11/2022 the informant had lodged NC against the applicant and even at that time also the informant did not disclose the incident dated 30/10/2022. There are statements of the informant and the victim recorded u/s. 164 of Cr.P.C. but prima-facie it appears that, there was dispute between husband and wife. Chats produced on record by the applicant discloses that the informant and applicant had matrimonial disputes and the applicant was interested in divorce, as the applicant is not capable of taking care of children and wife and accordingly she send message on 07/10/2022. Even on 15/10/2022

and 22/10/2022 the applicant and the informant had good chats.

11] Further it seems that, the applicant had filed complaint to Vishrantwadi police station against Sunita Vijay Yerekar and Vijay Narayan Yerekar blaming them they supported his wife for no reason and it resulted to make false allegations against him. Further it seems that, that the applicant is a Professor in Engineering College.

12] Thus, considering prima-facie conduct of the informant, who is wife of the applicant and delay in lodging the report and also keeping mum while filing NC against the applicant regarding the alleged incident and its nature and punishment provided for the said offence, further detention of the applicant behind the bars is not necessary. The apprehension of pressurizing the informant and witnesses can be taken care of by imposing stringent conditions upon the applicant. Therefore, application is to be allowed by imposing stringent conditions upon the applicant. With this, I proceed to pass following order :-

ORDER

- 1] The application is allowed.
- 2] The applicant **Rahul Shivajirao Hingole** shall be released on bail upon furnishing P.R. bond in the sum of Rs.1,00,000/- with one or two sureties 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 submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 7] The applicant shall not leave The State of Maharashtra without prior permission of the Investigating Officer.
- 8] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 9] Bail application stands disposed of accordingly.

Pune.
Date – 28/12/2022.

Sd/-xxx
(S.P. Ponkshe)
Addl. Sessions Judge, Pune.

CERTIFICATE

“ I affirm that the contents of the P.D.F. File Judgment/Order are same word for word as per original judgment/order”.

Name of Steno	-	Minal C. Yeole (Stenographer Grade-III)
Court Name	-	Smt. S. P. Ponkshe, Addl.Sessions Judge, Pune.
Date of Order	-	28/12/2022.
Order dictated on	-	28/12/2022.
Order transcribed on	-	28/12/2022.
Order signed by P.O.	-	28/12/2022.
Uploaded on	-	28/12/2022.