

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.359/2022 registered with Shirur police station for the offences punishable under Sections 363, 366, 376(2)(n),376(3) r/w 34 of the Indian Penal Code and under Sections 4,8,12,17 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 strongly 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] Mother of the victim has lodged report on 21/5/2022 against Sharad Sambhaji Jadhav by making allegations against him that on 20/5/2022, he had come outside the house of informant by his pickup vehicle and he kidnapped minor daughter of the informant. Report discloses that when Sharad Sambhaji Jadhav had been out of the house, the victim once had been gone towards him to talk to him and at that time, the informant brought the victim inside the house and Sharad Sambhaji Jadhav went away. After that, again the co-accused Sharad came and the informant saw the victim while seating

in pickup vehicle of co-accused Sharad and he hurriedly taken away the pickup vehicle.

5] Perused statement of the victim recorded on 29/11/2022. After perusal of her statement it reveals that in the year 2020, co-accused Sharad expressed his love upon the victim and he told her that he wanted to marry to her. At that time, the victim was studying in 9th std. Date of birth of the victim is 09/10/2006. Further her statement discloses that she regularly used to talk to co-accused Sharad on phone and he used to come to her house regularly.

6] In this background, on 19/5/2022 the victim received phone call from the co-accused Sharad and he told her to be ready and they would elope. On 20/5/2022, co-accused Sharad had come to their house for lunch. Her mother and sister had been gone to job, father was slept. At around 4.00 p.m. co-accused Sharad came and took her from his pickup vehicle. Then one unknown person gave his motorcycle to co-accused Sharad at Gunat road. Then they went on motorcycle at Ahamadnagar-Pune highway. Thereafter, co-accused Sharad stopped one ST bus and they went to Mumbai. They stayed in rented room for four days and first night he kissed the victim and second day again he became close to the victim and established forcible sexual relations with the victim. Thereafter, they went to Roha and took room on rent and stayed there for two to three months. Thereafter, they took another room on rent and they were residing in the said room. The applicant was earning 15,000/- Rs. per month. He had given her marriage string and they were telling

themselves as husband and wife. Till 26/11/2022, they had physical relations against her consent. On 28/11/2022, came to know about the report lodged by mother of the victim, hence, she told the applicant and they went by ST to Pune on 28/11/2022. Thereafter the applicant went to Ashtami Taluka Roha and the victim went to Shirur police station.

6] The victim was examined by the doctor on 30/11/2022. She disclosed the history and it prima facie reveals that she has not taken name of present applicant as a person who helped them to elope and even stated that she did not know co-accused Haribhau.

7] Allegations against present applicant are that the applicant though knowing about the act of co-accused Sharad Sambhaji Jadhav, committed with the victim, he did not give information about the same to the police. Considering the nature of the allegations against the present applicant and role attributed to him and punishment provided for the alleged offence, his further detention behind the bars is not just and proper. Therefore, application is to be allowed. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Dipak Bankat Kale** 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 not tamper with the prosecution evidence in any manner and shall not indulge in any offence.

- 4] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 5] The applicant shall not leave India without prior permission of the Investigating Officer.
- 6] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 7] Bail application stands disposed of accordingly.

Pune.

Date – 29/12/2022

(S.P. Ponkshe)
Addl. Sessions Judge, Pune.

CERTIFICATE

“ 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.Bharati D. Gaikwad (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl.Sessions Judge,Pune.
Date of Order	- 29/12/2022
Order signed by P.O.	- 29/12/2022
Uploaded on	- 30/12/2022