

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. 1663/2022 registered with Hadapsar police station for the offences punishable under Sections 376(2)(i), 377 of the Indian Penal Code and under Sections 4,6,8,12 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 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 informant is mother of victim no.1 aged 6 years. Victim no.2 aged 4 years who is neighbour's son and victim no.3 aged 4 years is neighbour's daughter. The applicant is residing near the house of the victim, on rent, in the house of Vinayak Raut.

5] FIR indicates that the applicant always used to play with the small children. On 28.12.2022 at around 6.00 p.m. when the informant was in the house, her son i.e. victim no.1 aged 6 years old told her that on that day at around 3.30 p.m., he was playing with

neighbour Vishal uncle and he came near to her and he told that he would give mobile phone to play to victim no.1 to victim no.3. Further, told them to come in his house. Therefore, victim no.1 and victim no.2 went in the house of the applicant. Thereafter, the applicant told victim no.1 and victim no.2 to remove their clothes and told them “सु खायेंगे और खेलेंगे” and he made them lie and he touched private part of victim no.1 boy by his hands and rubbed. He asked victim no.1 to take private part of victim no.2 in his mouth and vice-versa. Accordingly, they did the same. At that time, elder brother of victim no.2 came. Therefore, the applicant told them to wear the clothes and sent them to house. The mother of victim no.1 was shocked. Therefore, the informant i.e. mother of victim no.1 along with mother of victim no.3 and others went to ask about the same to the applicant but he did not open the door. Victim no.3 also disclosed that when she was playing the applicant, he lifted her and by doing her clothes aside, he scratched her place of urination by his nail. After hearing about the same, mother of victim no.1 has lodged report against the applicant on 28.12.2022.

6] Victim no.3 in her statement specifically stated that she is 4 years old and when she was playing, uncle i.e. present applicant called her. He inserted his hand in her knicker and moved his finger over genital area. He touched her said private part and scratched over by nail. Victim no.3 was examined by the doctor on 29.12.2022. Mother of victim no.3 narrated the history to the doctor. It appears that there is history that the applicant tortured the victim on her private parts i.e. perineal region. The statement of victim nos.1 and 2

also discloses the act committed by the applicant with them has narrated in the FIR.

7] Thus, prima facie there is sufficient evidence against the applicant regarding commission of sexual abuse on the victims. The applicant is 28 years old and the victims are just 4 years and 6 years old. The nature of the allegations are serious. The investigation is in progress. Prima facie nothing has disclosed that there is a dispute on common toilet and the present FIR is result of the said disputes between the applicant and the informant. Therefore, in such peculiar facts and circumstances, it is not just and proper to release the applicant on bail. Therefore, the 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 – 09/02/2023.

(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	- 09.02.2023
Order dictated on	- 09.02.2023
Order transcribed on	- 09.02.2023
Order signed by P.O.	- 10.02.2023
Uploaded on	- 10.02.2023