

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.165/2022 registered with Uttamnagar police station for the offences punishable under Sections 363, 354, 354-A, 323, 506(2) of the Indian Penal Code and under Sections 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.

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] It is argued by Ld. Advocate for the applicant that father of the victim girl has lodged report against the applicant who is 23 years old boy. Motorcycle has already been seized. Section 8 of the POCSO Act is not attracted. Hence, prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that the applicant compelled the victim to sit on the motorcycle. There is a case of sexual assault by the applicant upon the victim. The investigation is incomplete. Hence, prayed for rejection of the application.

6] It appears that father of the victim has lodged report against the applicant under Section 363 of IPC on 29.12.2022. The victim is 16 years old. On 29.12.2022 mother of the victim received phone call from the friend of the victim that the applicant had taken the victim on his motorcycle. On 30.12.2022, the victim was found at the maternal uncle's house of the applicant and police took the victim and the applicant at Police Station. Her statement discloses that the applicant is known to the victim and he expressed that he likes the victim and asked her to come with him to roam and to sit on his two wheeler. The victim refused and the applicant forcibly compelled the victim to sit on his two wheeler and he took the victim towards Warje Malwadi. Two to three times, the victim tried to jump but the applicant gave her threat that he would give dash to four wheeler and then they both would die. Thereafter, he stopped his vehicle in the open ground and disclosed her that he would marry to her and tried to kiss her. The victim refused his act and at that time he beat her. Then she started crying loudly. Then again the applicant took her forcibly on two wheeler at the house of his maternal uncle. His maternal uncle gave phone call to mother of the applicant and thereafter police came.

7] It appears that the victim is 16 years old and the applicant is 23 years old and they are known to each other. In the circumstances, it appears that the victim making allegations that the applicant had taken her forcibly with him. Further, prima facie there are no allegations regarding commission of sexual assault committed by the applicant upon the victim. The applicant is arrested on 30.12.2022.

Thus, considerable period, the applicant is behind the bars. Motorcycle has already been seized. Considering nature of offence and punishment provided for the offence, now his further detention behind the bars is not required. Therefore, application is to be allowed by imposing conditions upon the applicant. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Shubham Pandurang Tanpure** 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 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 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 India 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 – 16/01/2023.

(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	- 16.01.2023
Order dictated on	- 16.01.2023
Order transcribed on	- 16.01.2023
Order signed by P.O.	- 17.01.2023
Uploaded on	- 17.01.2023

