ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and APP for the State.

2] This is first bail application filed under section 439 of Cr.P.C. by applicant in respect of his arrest in C.R. No. 279/2019 registered at Koregaon Park Police Station for the offences punishable under sections 376(2)(n), 363, 366 of the Indian Penal Code and under sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that, mother of victim aged about 17 years lodged report about kidnapping of victim. During investigation and after recording statement of victim, it revealed that, she was acquainted with applicant. They started meeting and talking with each other. Applicant proposed her for marriage. On 14/11/2019 at 9 pm applicant made phone call to victim and repeatedly asked her to meet him. She then went away from house by telling that she was going at her grand-mother's house. Applicant met her and asked her to go with him and they would perform marriage. Applicant took victim at his house at Kunjiradi, Pune and told his family members that he is going to marry with victim. Victim resided in the house of applicant since 14/11/2019 till 17/11/2019 and during that period he committed forcible sexual intercourse with her for 2-3 times.

3] According to applicant, he is falsely implicated in this matter. There is delay in lodging FIR. The victim has left her house on her own accord by telling that she was going to her grand-mother's house. There is love affair between victim and applicant. Victim has attended sufficient age of maturity. There is no force from applicant. Applicant is 22 years old and earing member of family as he is running tea stall. Investigation is practically over. He is permanent resident of Kunjirwadi, Pune. He has no

criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] APP and I.O. objected this application on the grounds that, investigation is in progress. Statement of victim u/s. 164 of Cr. P. C. yet not recorded. Act of sexual intercourse was forcible and repeated. Applicant and victim are resident of same locality. Applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. So, they prayed to reject the application.

5] Allegations against the applicant are serious. From the statement of victim role attributed to applicant can be gathered. It revealed from statement of victim that, due to friendship and love affair, applicant and victim were meeting and talking with each other. Applicant proposed her for marriage then she resided with applicant since 14/11/2019 to 17/11/2019 without making complaint. According to her, applicant committed forcible sexual intercourse with her. But immediately she did not tell about the same to family members. Victim is 16 years old and applicant is 22 years old. Victim has attended age of sufficient maturity and knows the consequences of act.

6] In this context it is necessary to rely on authority cited in ***Sunil Mahadev Patil Vs. State of Maharashtra reported in 2016 All MR (Cri.) 1712***, in which it is observed that if statement of prosecutrix and witnesses shows that they were in love relationship with each other they eloped and went to temple and performed marriage, they started residing together in the house of relative then there are mitigating circumstances. Moreover, it is observed that factor i.e. age of prosecutrix, whether act is violent, whether there are antecedents or not, whether offender is capable of repeating the act

or not, whether there is likelihood of threats or intimidation if at all the boy is released, whether chance of tampering with material witnesses and age of the applicant and his employment and plan, stabilize and secure his future are to be taken into consideration while deciding bail application, when boy and minor girl are in love with each other.

7] Ratio laid down in above cited ruling is noted. Medical report shows similar history of love affair and history of consensual penetrative sexual intercourse. There are no injuries on the person of victim. After first incident victim did not complain. These are mitigating circumstances. Moreover, investigation is practically over. Personal custody of applicant is not required. He has no criminal antecedents. Applicant is 22 years old and running tea stall. He is permanently residing at Kunjirwadi, Pune. No purpose would serve by keeping the applicant behind bar for unknown period. Due to all above reasons application deserves to be allowed with following order -

ORDER

1] The application is allowed.

2] The applicant Ganesh Sunil Landge be released on executing P.R. bond of Rs. 30,000/- with one or two solvent sureties in the like amount.

3] The applicant shall not tamper the prosecution witnesses in any manner.

4] The applicant shall attend Koregaonpark Police Station on every Monday between 11.00 a.m. to 2.00 p.m. till the charge-sheet is filed.

5] The applicant shall not meet the victim and threat and pressurize the victim & witnesses, shall not enter into the vicinity of residence of victim.

6] The applicant shall co-operate investigating machinery as and when required.

7] Prior to furnishing surety, the applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.

Pune. (R.V.Adone)
Date – 07.12.2019. Addl. Sessions Judge, Pune.

" I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Name of Steno - G. S. Chougule
Court Name - Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order - 07.12.2019
Order signed by P.O. - 09.12.2019
Order uploaded on - 09.12.2019