

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. 9/2023 registered with Vimantal police station for the offences punishable under Sections 363,366,354 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] Aunt of the victim has lodged report against unknown on 09.01.2023 under Section 363 of I.P.C. The victim is niece of the informant and aged 16 years and 8 months old. Statement of the victim recorded on 13.01.2023 discloses that she knew the boy from Barshi i.e. the applicant and he came at the school gate and told her that she has to marry to him otherwise, he would commit suicide and had taken her at Bhosari and then they came at Pune Railway station. Then they went at Renugunta by train and went to Tirupati. Thereafter, they went to Bangalore. He inappropriately touched her when they were at his maternal aunt at Bangalore. Then on 11.01.2023 uncle of the applicant had brought them by train from Bangalore to Solapur. Maternal uncle of the applicant had been there by his car and had taken them at Barshi

Police Station. Police from Vimantal came and brought them at Pune.

5] Thus, it seems that the victim has roamed with the applicant at various places and she did not raise voice during the said period. Even she has denied her medical examination on 13.01.2023. It seems that the victim has made allegations of sexual assault. Thereafter, on 19.01.2023 the victim has given consent for her medical examination and she narrated history to the doctor and disclosed her love relationship with the applicant. It seems that the applicant and the victim were in love relationship since two to three years. They both ran away on 09.01.2023 to Tirupati and at various places as stated by the victim in her statement. There is no evidence of vaginal penetration in the medical examination report of the victim.

6] Thus, considering the conduct of the victim and her age of understanding, prima facie it seems that at her own the victim has left the house and she eloped with the applicant out of her love and affection towards the applicant and in the said period, she did not raise voice and therefore, prima facie even allegations of sexual assault does not inspire confidence.

7] Ld. Advocate for the applicant has placed his reliance in -

i] Anirudha Radheshyam Yadav Vs. State of Maharashtra in Criminal Bail Application no. 2632 of 2019 decided on 09.01.2020,

ii] Dipak s/o Ravindra Bhill Vs. the State of Maharashtra in Bail Application no. 1139 of 2020 decided on 22.10.2020.

8] It is case of love affair of a boy and a girl. The victim had attained age of understanding and she herself eloped with the applicant and roamed with him at various places. It is mitigating circumstance considering age group of the applicant and the victim. The victim is of understanding age and having knowledge of consequences of her act. The applicant is only 22 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

9] Thus, in the facts and circumstances, considering love relationship of the applicant and the victim and as there are no criminal antecedents against the applicant and no allegations of any violent act against the applicant, it is just and proper to release the applicant on bail. Therefore, application is to be allowed by imposing stringent conditions upon the applicant. With this, I proceed to pass the following order:

ORDER

- 1] The application is allowed.
- 2] The applicant **Vishal Sanjay Choughule** 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, 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 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 – 02/02/2023.

(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	- 02.02.2023
Order dictated on	- 02.02.2023
Order transcribed on	- 02.02.2023
Order signed by P.O.	- 03.02.2023
Uploaded on	- 03.02.2023