

ORDER BELOW EXH.1

1- Perused application and say. Heard Advocate for applicants and APP for the State.

2- This is first bail application filed under section 439 of Cr.P.C. by applicants in respect of their arrest in C.R. No.96/2019 registered at Vadgaon Maval Police Station for the offence punishable under section 376, 376(A)(B)(J), 354, 354(A) of the Indian Penal Code and under sections 4, 7, 8, 21 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim aged about 4 years lodged report stating that victim was kept for her education through Woman Welfare Committee, Shivajinagar, Pune at Jamila Arif Children Village, Kanhe Fata, Talegaon, Pune. First informant used to meet victim occasionally. In February-2019, first informant went to meet victim and victim was limping. Upon asking, first informant was told about illness of victim due to atmosphere. Later on also her health was not proper. So first informant took victim to house and inquired with her. Victim told that child in conflict with law took her to boys dormitory and moved his hand from her person and vagina. During investigation, it revealed that child in conflict with law also did fingering with victim. Moreover, she narrated about his act to applicant No. 1 i.e. warden who told about same to teacher i.e. applicant No. 2. They told about same to Principal of school but applicants No. 1, 2 and Principal never approached to Special Unit of Police and did not lodge report about incident. Therefore, offence punishable under Section 3, 19, 21 of POCSO Act are added in this matter.

3- According to applicants, they are falsely implicated in this matter. They are not concerned with alleged offence. There is no question of tampering prosecution evidence. They are doing job and

resident of Taluka Maval, District Pune. Their family members are depending on them. Investigation is practically over. They have no criminal antecedents. They are ready to abide the conditions. Hence, they prayed to release them on bail.

4- APP and I.O. objected this application on the ground that investigation is in progress. Applicants did not inform about incident to Special Police Unit. Applicants will pressurize victim and witnesses. There is possibility of tampering prosecution evidence and witnesses. So, they prayed to reject the application.

5- Allegations against the applicants are serious. Applicants are interrogated. From statement of victim and remand report role attributed to applicants can be gathered. There is allegation of non reporting of incident inspite of knowledge. Main allegations are against child in conflict with law. Advocate of applicants relied on **Thankamma Nelliyanil Vs. State of Kerala, unreported Bail Application No. 1667/2017**. Same is in respect of anticipatory bail. It is observed that offence under Section 21(1) of POCSO is bailable. Considering nature of offence and allegations investigation is practically over, Personal custody of applicants is not required. Applicants are doing job and resident of Taluka Maval, District Pune. Their family members are depending on them. Applicants have no criminal antecedents. No purpose would serve by keeping the applicants behind bar for unknown period. Due to all above reasons and as applicants are resident of Pune, application deserves to be allowed with following order -

ORDER

- 1] The application is allowed.
- 2] The applicants No. 1 Tehsin Imtiyaz Shaikh and No. 2 Yasmin Sadruddin Khan be released on executing P.R. bond of Rs.15,000/- each with one surety in the like amount. Cash bail of Rs. 15,000/- each allowed.
- 3] The applicants shall not tamper the prosecution witnesses in any manner.
- 4] The applicants shall not harass, threat and pressurize the victim.
- 5] Prior to furnishing surety, the applicants shall submit their address proof, mobile number and inform about the change in address and mobile number.

Pune.
Date – 20-04.2019.

(R.V.Adone)
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	- U. S. More Stenographer Grade II
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 20-04.2019.
Order signed by P.O.	- 20-04.2019.
Order uploaded on	- 20-04.2019.

CNR No.
MHPU010059832019

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Cri.Bail Application No. 2019/2019