

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.684/2022 registered with Pimpri police station for the offences punishable under Sections 363, 376(2)(n) of the Indian Penal Code and under Sections 4, 5(l), 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 mother of victim girl has filed say and resisted this application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and the Charge-sheet.

4] It is the case of the prosecution that the victim was 17 years and 11 months old and the mother of the victim lodged report under Section 363 of the I.P.C. on 16.08.2022. The statement of the victim recorded on 12.12.2022 discloses that in the year 2020, she got acquainted with the applicant and they became friends. He took her in his house at Balaji Nagar, Bhosari and no one was present in the house. The applicant established physical relations with her under pretext of marriage. Thereafter also repeatedly, the applicant has established physical relations with the victim. In August-2022, the parents of the victim came to know about the applicant. Therefore, they started discussion to fix marriage of the victim with someone else. The victim made quarrel with her parents. The victim and the

applicant decided to elope and accordingly, on 16.08.2022 the victim eloped with the applicant. He took the victim at Adamapur and he went to his house. The victim stayed in the Bhaktanivas room for 7 to 8 days. Thereafter, the applicant came and took the victim at Kawathemahankal, Sangli and they had physical relations time to time. On 13.09.2022 the victim completed 18 years of her age. Thereafter on 06.12.2022 she married to the applicant in the Mandir and went at the house of the applicant. On 11.12.2022 the police came and brought them at Police Station.

5] The doctor examined the victim to whom she narrated the incident and the applicant is her boyfriend and they had consensual sexual intercourse repeatedly. From the photographs tendered and certificate issued by the Devsthan discloses that the applicant and the victim married in the Mandir. From the statement of the victim it discloses that after attaining marriagable age, she married to the applicant. It seems that the victim due to her love and affection towards the applicant eloped with him and stayed with him and married to him.

6] It is case of love affair of a boy and a girl. The victim had attained age of understanding and she had surrendered to the physical desires of the applicant out of her love and affection towards him. 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. The investigation has been completed and the charge-sheet is filed.

Certainly trial will take its own time for disposal in accordance with law.

7] 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. No doubt, minor's consent is immaterial, but conduct of the applicant and the victim is necessary to consider at this stage. 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 **Swapnil Sunil Sakate** 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 not tamper with the prosecution evidence in any manner and shall not indulge in any offence.
- 4] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 5] The applicant shall not leave the India without prior permission of the Investigating Officer.
- 6] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 7] Bail application stands disposed of accordingly.

Pune.
Date -08/03/2023.

(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	- 08.03.2023
Order dictated on	- 08.03.2023
Order transcribed on	- 08.03.2023
Order signed by P.O.	- 09.03.2023
Uploaded on	- 09.03.2023