

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. 379/19 registered at Vishrantwadi Police Station for the offence punishable under section 376 of the Indian Penal Code and under section 3 r/w. 4, 5(j)(2), 5(m), 8 & 12 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that, father of victim aged about 17 years lodged report stating that victim was acquainted with applicant. They were meeting each other, so he convinced victim but then victim started behaving strange and doctor told that, her mental condition was not good. In April 2019 first informant told applicant and his family members that, after completing 18 years of victim, he would perform her marriage with applicant. On 25/11/2019 at night victim fell in bathroom and there was bleeding from her private part. She was taken in Sahyadri hospital where it revealed that, she is 10 weeks pregnant. Upon inquiry with victim she told that, in October or November applicant came to house for 2-3 times and kept sexual intercourse with her as they both were going to marry. She did not disclose the incident to anyone as the family members will scold her.

3] According to applicant he is falsely implicated in this matter. It is a case of love affair. There is delay in lodging report. Victim is 17 years old therefore, she knows the consequences of the act. There was no force from the applicant. Applicant is 23 years old. He is driver and student. He is permanently residing at Mahagaon Dist. Yawatmal and temporarily resident of Dhanori, 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 ground that investigation is in progress. Statement of victim u/s. 164 of Cr. P. C. yet not recorded. Applicant and victim are residents 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. Applicant is sufficiently interrogated. From statement of victim role attributed to applicant can be gathered. It revealed that due to love affair and as their marriage was fixed, victim and applicant were meeting each other. Applicant kept sexual relationship with her in September and October, 2019 with her consent for 2 to 3 times. She then missed her menstrual cycle and on 25/11/2019 she fell in bathroom, there was bleeding from her private part and then upon examination, it revealed that, she is 10 weeks pregnant. So it appears that since beginning victim did not complain and her family members learnt about the act after revealing 10 week pregnancy. Victim is 17 years old. She has attained age of sufficient maturity and knows the consequences of the 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. In medical papers she gave history of love affair and history of multiple episodes of sexual vaginal intercourse. There are no injuries on her person. Victim never complained since beginning. It prima-facie revealed that due to love affair they were meeting each other. Till pregnancy victim never stated anything to her family members. These are mitigating circumstances. Moreover, investigation is practically over. Personal custody of applicant is not required. He has no criminal antecedents. Applicant is 23 years old and driver and student. He is permanently residing at Mahagaon Dist. Yawatmal and temporarily resident of Dhanori, 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 Chandrashekhar Aka Akshay Kailas Kamble 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 evidence in any manner.
- 4] The applicant shall attend Vishrantwadi 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 harass, threat and pressurize the 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.

Date – 07.12.2019.

(R.V.Adone)

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