

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. 147/2023 registered with Paud police station for the offences punishable under Sections 376(AB) and 506 of the Indian Penal Code and under Sections 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 informant appeared through advocate and filed say and strongly opposed this application.

3] Heard Ld. Advocate for the applicant and Spl.P.P. for the State. Perused application, say filed by the prosecution and charge-sheet and also perused documents tendered by the applicant.

4] The mother of the victim has lodged a report against the applicant on 24.04.2023. The victim is 10 years and 4 months old. The informant's father passed away one year before. The informant and her two daughters are residing at Sutardara and her younger daughter i.e. the victim is residing at Jamgaon, Tal. Mulshi, Dist. Pune at the house of her cousin brother-in-law Ashok Thombare since last 5 years and she is studying in 4th standard.

5] The FIR indicates that on 22.04.2023 due to Yatra, the

informant and her two daughters went to Jamgaon., After Yatra at around 6.00 p.m. on 23.04.21023, the victim told the informant that she wanted to talk to her and she told that on 21.04.2023, at around 6.30 p.m. Chikumama from the village had taken her in his house and he removed her clothes and removed her Chaddi and he kept his part of urination at the part of urination of the victim. The informant asked why she did not tell the incident to anyone and the victim answered that Chikumama was giving her money and therefore, she did not cry and Chikumama told her that if she tell the said incident to anyone, he would kill her mother and therefore, she did not tell the incident to anyone. Further, Chikumama told the victim that, “माझे कडून तुला मुलं होणार नाहीत तर तुला खंडयाकडून मुलं होतील. त्यामळे तू माइयाकडेच ये असे म्हणाला होता”. Further, she told that she was scared that uncle would beat and therefore, she did not tell the incident to her uncle also. She disclosed that Chikumama did the similar act for two times with her. Earlier, Khandyakaka from the village had also given her chocolate and took her in the house of Sanika, where he forcefully inserted his part of urination in her part of urination by removing her Chaddi and pushed. The victim started paining and she ran from the house by making shouts. At that time also she did not tell the incident to anyone in the house.

6] Further, she told that Khandyakaka also did the similar act earlier also. Thereafter, the brother-in-law of the informant, sister-in-law of the informant and the informant had taken the victim in confidence and she disclosed the name of the applicant as Ananta @ Chiku Landge and co-accused Anil @ Khandya Sidhu Thombre who

had committed forcibly sexual intercourse with the victim. Thereafter, they went to police station along with the victim and the informant has lodged a report against the applicant.

7] The statement of the victim discloses that the victim has stated the incident of commission of penetrative sexual assault upon her by the applicant and further, she has specifically stated that semen poured on the place of urination of the victim i.e. 'शेंबडासारख पांढर पडत होतं आणि व्हिक्टीमच्या शुच्या जागेवर पांढरं पडलेले पुसलं' seems to be cleaned by the present applicant. Further, she disclosed that she narrated the incident to her friend who is her cousin. Further, she has disclosed the act committed by co-accused Anil. The victim has narrated the history to the doctor and named present applicant and co-accused, who have committed penetrative sexual assault upon her. The statement of uncle of the victim and other witnesses prima facie supports the prosecution case regarding commission of the offence by the present applicant.

8] Thus, prima facie there is sufficient material regarding commission of penetrative sexual assault by the applicant upon the victim. The applicant is 75 years old. The nature of the offence is serious and grave. Considering the nature of offence of aggravated penetrative sexual assault and prima facie sufficient material, the arguments advanced that on account of dispute regarding the parking, the applicant has falsely implicated in the case is not acceptable. Thus, it is not fit case to grant bail to the applicant. Therefore, application is to be rejected. With this, I proceed to pass

the following order:

ORDER

- 1] The application is rejected.
- 2] Bail application stands disposed of accordingly.

Pune.
Date – 18/07/2023.

(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	- 18.07.2023
Order dictated on	- 18.07.2023
Order transcribed on	- 18.07.2023
Order signed by P.O.	- 19.07.2023
Uploaded on	- 19.07.2023