

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. 69/2023 registered with Dighi police station for the offences punishable under Sections 363, 376m 376(2)(n) of the Indian Penal Code and under Sections 4,8 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 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. Perused documents tendered by the applicant.

4] The mother of the victim has lodged a report under Section 363 of I.P.C. on 16.02.203. The victim is 16 years old. On 15.02.2023, in the afternoon, the victim left the house and she did not find. The victim was searched and police brought the victim on 01.05.2023 when she was along with the applicant at Karegaon, Shirur, Dist. Pune.

5] The statement of the victim was recorded on 01.05.2023. She has disclosed that she knew the applicant since one year and they are in love relationship. They decided to marry and decided to elope.

On 15.03.2023, the victim gave phone call to the applicant and he called her at Swargate. Accordingly, she went at Swargate when no one was in her house. Then they both went to Karnataka at Mudalgi, by bus. The victim stayed with the applicant as his wife. The applicant was doing job there. They stayed together for one and half month. They came to know about the report lodged by her parents. Therefore, they went at the house of the applicant at Karegaon, Tal. Shirur, Dist. Pune and they told that they married. They had two to three times physical relations.

6] The victim has narrate history to the doctor and she disclosed their love relationship and how they eloped and she further disclosed first episode of physical relations on 20.04.2023 and thereafter, two to three times and lastly on 30.04.2023.

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

i] Imran Iqbal Shaikh Vs. The State of Maharashtra in Bail Application no. 997/2022 decided on 26.04.2023.

ii] Faizan Wahid Baig Vs. The State of Maharashtra in Bail Application no. 3372/2021 decided on 15.11.2022.

8] Thus, 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

21 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.

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. 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 **Umesh Ganesh Mohote** 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 and Friday 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 not confront to the victim and not to enter in the area where the victim is residing.
- 7] The applicant shall submit his address proof and phone details as well as phone details of two close relatives to Investigating Officer.
- 8] The applicant shall not leave India without prior permission of the Investigating Officer.
- 9] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.
- 10] Bail application stands disposed of accordingly.

Pune.

Date – 15.07.2023.

(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	- 15.07.2023
Order dictated on	- 15.07.2023
Order transcribed on	- 15.07.2023
Order signed by P.O.	- 17.07.2023
Uploaded on	- 17.07.2023