

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. 129/2023 registered with Chandannagar police station for the offences punishable under Sections 376, 376(2)(n), 354-D, 506 of the Indian Penal Code and under Sections 4,5(1),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 the victim appeared as an intervenor and has filed say and resisted this application till recovery of photographs and video recording from the applicant.

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 the copy of Whatsapp message sent by the applicant to grandmother of the victim which was sent by the grandmother to the victim's uncle Asif Shaikh. Perused authorities cited by the informant in -

i] Prasanta Kumar Sarkar Vs. Ashis Chatterjee and another reported in (2010) 14 Supreme Court Cases 496,

ii] Sudha Singh Vs. State of Uttar Pradesh and another reported in (2021) 4 Supreme Court Cases 781,

iii] X (Minor) Vs. The State of Jharkhand reported in 2022 LiveLaw(SC) 194,

4] Ld. Advocate for the applicant has tendered Whatsapp chats and the photographs. He has placed his reliance in -

i] Snatial Mashih Vs. The State of Madhya Pradesh in M.Cr.C. no. 13174/2015 decided on 08.12.2015,

ii] Amit @ Amit Kumar Seth Vs. The State of Bihar in Cri. Misc. no. 44726/2015 decided on 01.04.2016,

iii] Birju @ Brajbhan Singh Vs. The State of Madhya Pradesh in MCRC no. 13490/2018 decided on 25.04.2018.

iv] Sanket Muduli Vs. State of Odisha in BLAPL no. 3557/2022 decided on 17.05.2022.

5] The mother of the victim has lodged a report against the applicant by making allegations against him that from April-2022 to 23.03.2023 under the pretext of marriage, he established forcibly physical relations with the victim aged 17 years and 9 months and snapped her photos and recorded videos in the mobile phone and also he gave threat to make viral the photographs of the victim and to kill her. He has repeatedly established physical relations with the victim.

6] The victim in her statement recorded on 01.04.2023 disclosed that she knows the applicant since one and half year. In the year 2022, the applicant used to come in her grocery shop and he had taken her mobile phone number for some work and started giving messages to her and disclosed his love. The victim stopped the talk with him and the applicant went to his native place. Six months thereafter he came and insisting the victim to meet him and

accordingly, she went to meet the applicant at the house of his friend. At that time, the friend of the applicant was not present and under the pretext of marriage, the applicant established forcefully non consensual sexual intercourse with the victim and snapped her nude photographs. The victim got scared and ran to her house. Thereafter, repeatedly the applicant by giving her threats to make viral photographs, established physical relations with her.

7] The doctor examined the victim on 23.03.2023 and the victim narrated the history and disclosed love relationship with the applicant. She has given history of non consensual vaginal intercourse.

8] In this background photographs prima facie shows that the victim and the applicant were very close to each other in their love relationship. Prima facie photographs shows that the victim was happily had given company to the applicant. It is the case of love affair of a boy and a girl. Considering her age, she was of understanding age to know the consequences of her own act. The applicant is 24 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 mobile phone of the applicant has been seized and the Charge-sheet is filed. Certainly trial will take its own time for disposal in accordance with law. 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 **Arbaj Sikandar Shaikh** 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 1st Monday of the month between 10.00 am to 11.00 am till conclusion of the trial.
- 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 – 15.06.2023.

(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	- 15.06.2023
Order dictated on	- 15.06.2023
Order transcribed on	- 15.06.2023
Order signed by P.O.	- 16.06.2023
Uploaded on	- 16.06.2023

