

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. 45/2023 registered with Uttamnagar police station for the offences punishable under Sections 376(2)(f), 354, 506 of the Indian Penal Code and under Sections 4,6,8 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 vide Exh.7 and she has given no objection for releasing the applicant on bail. Perused written arguments tendered by the informant.

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] FIR indicates that the mother of the victim has lodged a report against her husband. The victim aged 7 years is daughter of the informant and the applicant. On 23.03.2023, the informant observed that the victim had difficulty to pass the urine and therefore, by removing undergarments of the victim, the informant observed place of urination of the victim. She found that the said area had become reddish and on touch to said part, it was paining to the victim and she was crying. The informant did not pay heed for two days as she felt

that it was due to summer. Thereafter, the victim's pain was increased and on 24.03.2023 the informant took the victim to the doctor and on next date test were carried out.

5] FIR further indicates that on 26.03.2023 the victim disclosed to her mother that her father had taken her on his lap and got down her knicker and inserted his finger in the place of urination and since then it was paining to her. Further, she disclosed that her father was showing her videos on mobile phone and told her not to disclose the incident, otherwise he would kill her and her mother. On 31.03.2023, the victim was shown to Mai Mangeshkar Hospital and doctor took the history from the informant and the victim and thereafter informed about the incident to the police. Accordingly, on 31.03.2023 the mother of the victim has lodged the report against the applicant.

6] Perused statement of the victim recorded on 02.04.2023. It was recorded before the mother of the victim and representative from Foundation from Child Protection, Muskan. It prima facie reveals that the victim has reiterated the incident which was narrated by the victim to her mother. The victim was examined by the doctor on 01.04.2023. It discloses that the history of fingering by father and touching her breast by the father and touching her vagina and uretra by the father.

7] Thus, prima facie there is evidence against the father of the victim regarding commission of penetrative sexual assault. In the circumstances, now no objection tendered by the mother of the victim

with the contention that due to misunderstanding she filed the report cannot be considered. Considering prima facie sufficient material on record against the applicant, it is not just and proper to release the applicant on bail. 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 – 08.06.2023.

(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	- 08.06.2023
Order dictated on	- 08.06.2023
Order transcribed on	- 08.06.2023
Order signed by P.O.	- 09.06.2023
Uploaded on	- 09.06.2023