

ORDER BELOW EXH.1

1] This application has been filed by the applicant for seeking pre-arrest bail u/s. 438 of Code of Criminal Procedure in connection with CR No. 674/2023 registered with Hadapsar police station for the offences p/u/s. 354 of the Indian Penal Code and p/u/s. 8,12 of the Protection of Children from Sexual Offences Act. [Hereinafter Indian Penal Code referred to as “IPC” and 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.

3] Heard Ld. Advocate for the applicant and Spl. P.P. for the State. Perused application, say filed by the prosecution and police papers. Perused documents tendered by the applicant i.e. Whatsapp chats.

4] The father of the victim has lodged report on 02.05.2023 against the applicant by making allegations of sexual assault committed by him upon his minor daughter aged 13 years. The statement of the victim recorded on 08.05.2023 discloses that in the month of February-2023, one boy was standing outside her school and he asked her name and he told his name Aryan and they became friends. When father came to know about the same, he scolded her and gave directions to Aryan not to give her phone call. In the month of April-2023, Aryan gave her phone call and they started contacts on phone. One day he told the applicant is his friend and he likes her and told her that the applicant would call her at 10.00 p.m.

5] On 25.04.2023 at 1.00 a.m. the applicant gave her phone call and he expressed that he likes her. Again 2nd day, he gave her phone call. He continued to call her. On 30.04.2023, he gave phone call to the victim at 1.00 a.m and asked about her result on next day. She told him that her parents were out of town and she would not come to bring result in the school. In the morning again, he gave phone call. At 7.30 a.m. the victim went to bring the result and at that time, the applicant was standing outside the school. He asked her to come with him to his house. The victim refused. Then he told her that they would roam. The victim refused but forcibly he took the victim on his motorcycle and had taken her to Tukai Tekade. Thereafter, he took the victim at the back side of common toilet, it was closed and there was one window. On insistence to chat inside the said toilet, the victim and the applicant went inside the toilet from the window. He took the mobile phone of the victim and switched off and kept with him. Thereafter, under pretext of marriage, he gave her hug and kissed her and established physical relations with her, though she was having menses. Thereafter, he threatened her not to disclose the incident. The applicant dropped her near Bhekrai bus stop. She went in the house of her friend to change the clothes. The father of her friend dropped the victim in her house.

6] The victim was examined by the doctor on 03.05.2023. she narrated the history to the doctor and named the applicant as her boyfriend. The victim did not give the history of penetrative sexual intercourse and she disclosed that they hugged and kissed each other. That apart, prima facie the opinion of the doctor and old healed

hymenal tear present, supports the case of the prosecution.

7] Age of the victim is 13 years. It seems that already two crimes has been registered against the present applicant. It is submitted by the Investigating Officer that the applicant used to change his house and motorcycle yet to be recovered and for investigation his custody is necessary.

8] It appears that the victim is only 13 years old girl. Further, it seems prima facie that the applicant had taken the victim in the toilet from the window and committed the alleged act of penetrative sexual assault. Medical examination of the accused is necessary. The nature of the offence is grave and serious. For the further investigation, custodial investigation of the applicant is very much necessary. Therefore, it is not fit case to grant anticipatory bail to the applicant. Therefore, application is to be rejected. With this I proceed to pass following order.

ORDER

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

Pune.
Date – 10.06.2023.

(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	-	S.V. Thakar (Stenographer G-1)
Court Name	-	Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	-	10.06.2023
Order dictated on	-	10.06.2023
Order transcribed on	-	10.06.2023
Order checked signed by P.O.	-	12.06.2023
Uploaded on	-	12.06.2023