

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. 314/2023 registered with Bharati Vidyapeeth police station for the offences punishable under Sections 376(2)(n) of the Indian Penal Code and under Sections 4,6,10 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 police papers.

4] The victim aged 16 years 4 months and 28 days old has lodged a report against the applicant, who is 19 years old. In the year 2020 the victim was in 7th standard and got acquainted with the applicant through her friend. Therefore, the victim used to go to the house of the applicant to meet his family members. In the year-2021, the applicant and the victim went to meet the mother of the applicant and she was not in the house and went to Mumbai along with brother of the applicant. At that time, when no one was in the house, the applicant had established non consensual physical relations with the victim. The victim got scared and therefore, she did not tell the

incident to anyone.

5] Thereafter, three to four times, the applicant called the victim in his house and established sexual intercourse with the victim and told her not to disclose the incidents to anyone. Therefore, she did not tell the same to anyone. Thereafter, the victim started to go to job and therefore, she was avoiding the applicant. They use to meet intermittently in the month January-2023. The applicant called the victim to meet him and had taken her in Jain Mandir at Dattanagar and further, he took the victim in the hilly area in bushes and under the pretext of marriage, he has established non consensual sexual intercourse with the victim. Thereafter, the victim missed her menstrual cycle. Therefore, her mother asked about the same and she disclosed the incidents to her mother. The applicant made the victim pregnant and accordingly, she has lodged a report against the applicant.

6] Medical examination report of sexual violence discloses that the victim was examined by the doctor on 21.05.2023. The victim narrated the history to the doctor of love relationship. It seems that the victim and the applicant had consensual vaginal penetration first time in 2021 and thereafter, repeatedly for four times, they had physical relations. The victim has become pregnant.

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

i] Vishal Vs. State of Maharashtra reported in 2021 ALL MR(Cri) 187,

ii] Pandurang Karbhari Kajale Vs. The State of Maharashtra reported in 2021 ALL MR(Cri) 2364,

iii] Sunil Mahadev Patil Vs. State of Maharashtra reported in 2016 ALL MR(Cri) 1712,

iv] Satyam Ramchandra Fulore Vs. The State of Maharashtra reported in 2015 ALL MR(Cri) 2785,

v] Shri. John Franklin Shylla Vs. State of Meghalaya and another in Crl.Petn. no. 3 of 2023 decided on 21.06.2023,

vi] Suraj Paithankar Vs. State of Maharashtra reported in 2020 CLU 1951.

8] Prima facie it appear that 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 19 years old. The applicant is his teen age deserves to get employment, to plan and stabilize and secure his future.

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 **Ajay Nathbaba Thorat** 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 – 13.07.2023.

(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	- 13.07.2023
Order dictated on	- 13.07.2023
Order transcribed on	- 13.07.2023
Order signed by P.O.	- 13.07.2023
Uploaded on	- 14.07.2023