

ORDER BELOW EXH.4

1] This is the first bail application filed by the accused u/s. 439 of Code of Criminal Procedure.

2] The prosecution has filed say and opposed this bail application.

3] Heard Ld. Advocate for the accused and Spl.P.P. for the State. Perused application, say filed by the investigating officer and Spl. P.P.

4] It is argued by learned Advocate for the applicant that the accused is in jail for 5 months. The victim is 10 years and 10 months old. Applicant is 46 years old and neighbour. Investigation has been completed. Hence, prayed for allowing the application.

5] Ld. Spl.P.P. has submitted that the accused is married person and 46 years old. Parents of the victim used to go out for the work. Victim and her brother, sister used to remain alone in the house. Accused sent her brother to play outside the house by giving him chocolate and committed sexual assault on the victim. Nature of the offence is serious and she has prayed for rejection of the application.

6] It is the case of the prosecution that on 02.05.2022 at about 11.30 a.m. the accused sent brother of the victim out of the house by giving him chocolate. Accused is neighbour. Parents were not present in the house. The victim is 10 years and 10 months old. The

accused entered in the house and by holding her waist, he took the victim on the bed and asked her to sleep. Sister of the victim aged 11 years was scared and she concealed herself in the bathroom. After knowing about the incident from the victim, father of the victim called his wife. Then mother of the victim has lodged report against the accused on the same day.

7] Prima facie from the statement of the victim, it discloses that the accused had been in the house when parents went for job. The victim her sister and brother were in the house. The accused sent brother of the victim to play outside the house by giving him chocolate. On seeing the accused, sister of the victim concealed herself in the bathroom. The accused hold waist of the victim and took her on bed and asked her to sleep. The victim was scared and shouted as 'vahini'. Therefore, the accused went away and 'vahini', who is neighbour came there, to whom the victim disclosed the incident.

8] Statement of the sister of the victim discloses that she concealed herself in the bathroom, on seeing the accused and her brother had been sent outside by giving chocolate. She heard shouting of the victim as 'vahini' and therefore, she came outside the bathroom and went inside the house. Vahini also came there. The victim disclosed the incident to them.

9] Statement of the brother of the victim also support the fact prima facie that the accused sent him outside the house to play by

giving him the chocolate. There is a statement of neighbour vahini also. Prima facie statements of the witnesses supports the prosecution case. Conduct of the accused prima facie discloses his intention to commit the offence. In view of the allegations against him, it appears that he caught hold the waist of the victim and took her on bed, asked her to sleep, that too, by sending brother outside the house. The accused is 46 years old and a married person. Prima facie there is evidence in respect of commission of aggravated sexual assaulted by the accused on the victim. The nature of the offence is serious. Further it appears that the accused is neighbour. Therefore, if he released on bail, there is every possibility of pressurizing the victim and family members and tampering of the evidence. In such facts and circumstance, it is not just and proper to release the accused on bail. Therefore, the application is to be rejected. With this I proceed to pass the following order :-

ORDER

- 1] Application is rejected.
- 2] Bail Application No. 476/2022 stands disposed of.

Pune
Date :- 17.10.2022

(S.P.Ponkshe)
Spl. Judge under POCSO Act and
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	- Smt. Khisti (Steno G-1)
Court Name	- Smt. S. P. Ponkshe, Addl.Sessions Judge,Pune.
Date of Order	- 17.10.2022
Order dictated on	- 17.10.2022
Order transcribed on	- 17.10.2022
Order signed by P.O.	- 18.10.2022
Uploaded on	- 18.10.2022