

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.135/2023 registered with Marketyard police station for the offences punishable under Sections 376, 376(2)(i), 323, 504, 506 of the Indian Penal Code and under Sections 4, 8 and 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 informant has filed say and she has given no objection for releasing the applicant on bail.

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 has lodged a report against the applicant on 30.05.2023. The applicant was the friend of maternal uncle of the victim. and he used to come in her house and she got acquainted with the applicant. Thereafter, they became friends. In November-2019, the applicant proposed the victim and the victim refused. Again in January-2020, the applicant proposed her and repeatedly was telling her that he wanted to marry to her. When she refused, he gave threat of his life and therefore, he gave consent to

his proposal. They used to meet. In the year 2022, the applicant was telling the victim not to go to the shop or not to go outside the house along with the parents. When she refused the same, he was abusing her and giving threats to kill her.

5] The FIR further indicates that in May-2022, when she was alone in the house, the applicant established forcefully physical relations with her and threatened her to kill, if she disclosed the incident to anyone. Therefore, the victim kept mum. Thereafter, the applicant was abusing the victim and used to beat her on the ground if she went outside the house. On 26.05.2023, when she got down along with her mother from rickshaw, while returning from Tulshibaug, the applicant staring her by big eyes. The victim got scared that the applicant would beat her. She gave phone call to the applicant from mobile phone of her mother and informed that she had been gone along with her mother. Then the applicant abused her. On 30.05.2023, again near bathroom, the applicant abused her for no reason and beat her. Even thereafter, the applicant went at the place of job of the mother of the victim and abused. Therefore, the victim has lodged report against the applicant.

6] The victim was examined by the doctor on 30.05.2023. She narrated the history to the doctor and she disclosed her love relationship since 4 years and had consensual sexual intercourse. Thus, 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. 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 21 years old. The applicant is in his early 20's deserves to get employment, to plan and stabilize and secure his future.

7] 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 **Sajid S/o Firoz Bagvan** 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 – 24/07/2023.

(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	- 24.07.2023
Order dictated on	- 24.07.2023
Order transcribed on	- 24.07.2023
Order signed by P.O.	- 25.07.2023
Uploaded on	- 26.07.2023