

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.
- 2] The prosecution has filed say and opposed this bail application.
- 3] Heard Ld. Advocate for the applicant and Spl. PP for the State. Perused application, say filed by the prosecution and police papers.
- 4] It appears that when the application had filed, the copy of the alleged crime registered against him was not tendered by the applicant. He has made apprehension of his arrest in the crime which would be registered against him by the wife of Mukesh Gupta.
- 5] It prima facie reveals from the documents that the wife of the present applicant has lodged a report on 08.06.2023 vide C.R. no. 181/2023 registered with Mundhawa police station, against Mukesh Gupta by making allegations against him that since October-2020 to first week of March-2023, repeatedly, Mukesh Satyanarayan Gupta has committed sexual assault upon her son, whenever he went in the house of Mukesh Gupta. Her son is 13 years old. According to the wife of the applicant that Mukesh Satyanarayan Gupta used to press breast of her son and used to move his hand on his buttocks. He used to take in hand part of urination of the victim boy and shaking it and he was sleeping with him by taking near to him. Further, even there are allegations that Mukesh Gupta was asked the victim boy to snap his photograph and he used to remove his short. Even he threatened

the victim boy.

6] It seems that the said report was lodged by the wife of the applicant on 08.06.2023. In this background, it reveals that on 09.06.2023, i.e. immediately on the second day, the wife of Mukesh Gupta has lodged a report against the present applicant vide C.R. no. 186/2023 registered with Mundhawa police station by making allegations against the present applicant that on 08.06.2022, at Go Crazy Adventures Park, Sinhgad Road, Pune, while swimming, the applicant pulled down 'Chaddi' of her son aged 11 years and moved up and down part of urination of the victim boy and on 14.01.2023 at Ganga Queens Society, C-404, B.T. Kawade Road, Ghorpadi, Pune in the balcony of the flat, the applicant came from back side and he gave hug to the victim boy by one hand and he inserted another hand in the short of the victim boy and touched his private part.

7] It reveals from both the First Information Reports that both the families are having good family relations and they are friends. They used to go to each other's house and even allowing their children to stay in the house of each others. It appears prima facie that the wife of Mukesh Gupta has made allegations against the present applicant with regard to the alleged incidents, allegedly committed on 08.06.2022 and 14.01.2023. It seems that even after alleged incident of 14.01.2023, in the month of March-2023, all children from the family of Mukesh Gupta and the applicant's family were gathered together and family members of Gupta insisted and accordingly, children of the applicant stayed in the house of Gupta family. After

that allegedly the son of present applicant refused to go to stay in the house of Gupta family on 11.03.2023 and according to the present applicant, it was revealed that Mukesh Gupta committed sexual assault upon his son.

8] Prima facie it appears that both the families were together and now, they are making allegations of sexual assault on their son by causing delay and there is no explanation of delay in lodging a report. Conduct further discloses that immediately, the wife of Gupta has lodged a report against the present applicant by making the same allegations of sexual assault on her son aged 11 years. The said report is also lodged by causing delay and the delay has not been explained.

9] In the facts and circumstances, considering the nature of allegations and complaints lodged against each other by the wife of present applicant and the wife of Mukesh Gupta and even further there is no question of recovery or discovery, custodial investigation of the present applicant is not necessary. Hence, it is just to grant pre-arrest bail to the applicant by imposing conditions upon him. With this I proceed to pass following order.

ORDER

- 1] The application is allowed.
- 2] In the event of arrest of the applicant **Umar Malik** in connection with C.R. no. 186/2023 registered with Mundhawa Police Station, be released on executing P.R. bond of Rs.50,000/- with one surety in the like amount.
- 3] The applicant shall attend concerned police station on every Monday between 11.00 a.m to 2.00 p.m. till filing of the

charge-sheet.

- 4] The applicant shall not tamper the prosecution evidence in any manner.
- 5] The applicant shall cooperate investigating machinery.
- 6] The applicant shall not harass, threat and pressurize first informant and witnesses.
- 7] Violation of any of the conditions imposed, shall amount the cancellation of bail forthwith.

Pune.

Date – 14.07.2023.

(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	-	S.V. Thakar (Stenographer G-1)
Court Name	-	Smt. S. P. Ponkshe, Addl. Sessions Judge, Pune.
Date of Order	-	14.07.2023
Order dictated on -		14.07.2023
Order transcribed on	-	15.07.2023
Order checked signed by P.O. -		17.07.2023
Uploaded on	-	19.07.2023