

ORDER BELOW EXH.4

1] Perused application and say. Heard Advocate for accused no. 4 and 5 and PP for the State. Notice issued to first informant and perused reply filed by victim.

2] This is first bail application filed under section 439 of Cr.P.C. by accused no.4 and 5 in respect of their arrest in C.R.No.580/2022 registered at Arvi Police Station for the offence punishable under section 11 of the Protection of Children from Sexual Offences Act, 2012 and under section 9, 11 of Prohibition of Child Marriage Act.. It is alleged that Assistant Police Inspector of Police Station, Arvi lodged report stating that they received letter from Primary Health Center Kharangana who informed that there is registration of pregnant woman who is below 18 years. Therefore considering her age there is risk to her life. After receiving said letter inquiry was made and it revealed that accused no.1 married with minor victim prior to 4 to 5 months. Family members of accused no.1 are accused no.2 i.e. his father, accused no.3 i.e. his mother of Nathjogi community and are working as Fortune-teller. Accused no.4 is father of victim, accused no.5 is mother of victim. It is alleged that they performed child marriage of their daughter. Though family members of victim and accused told age of victim as 19 years, first informant made correspondence at her school and other departments and received documentary evidence that birth date of victim is 30-07-2005. After her marriage she is residing with her husband and in-laws, i.e. accused no.2 and 3. Her parents and in-laws are also made accused in this matter. After marriage accused no.1 repeatedly kept sexual

intercourse with her and she became pregnant.

3] According to accused they are falsely implicated in this matter. Material offences are leveled against main accused. Allegations against them are in respect of offence punishable under section 11 of Prohibition of Child Marriage Act. Accused no.4 and 5 are parents of victim. Police gave intimation to them. After receiving Court summons, they appeared and stated that they are not concerned with offence. They are ready to abide conditions and prayed to release them on bail.

4] PP did not object this application and submitted that already police gave intimation to accused no.4 and 5 and they were not arrested.

5] Allegations against the accused are serious. From statement of victim, role attributed to accused can be gathered. In F.I.R. allegations about penetrative sexual assault are against main accused no.1. Accused no.4 and 5 are parents of victim and it is alleged that they performed her child marriage. According to victim after she attained majority, her marriage was performed with accused no.1. She told her age 19 years in government hospital. After marriage she started residing with accused no.1 to 3. Considering age of understanding of victim, allegations against accused no.4 and 5, fact that they were not arrested and released on intimation, it is proper to release them on bail. After completion of investigation charge-sheet is filed. Accused no.4 is 50 years old and accused no.5 is 45 years old, they are doing labour work. They are permanently resident of village in

Tah. Umarkhed, Distt. Nagpur. They have no criminal antecedents. Therefore application deserves to be allowed with following order.

ORDER

- 1] The application is allowed.
- 2] The accused No. 4 and accused no.5 be released on executing P.R. bond of Rs.15,000/-each with one surety each in the like amount.
- 3] The accused shall not tamper the prosecution witnesses in any manner.
- 4] The accused shall attend each date of Court proceeding.
- 5] The accused shall not threat and pressurize the victim and witnesses.
- 6] The accused shall co-operate investigating machinery as and when required.
- 7] Prior to furnishing surety, the accused shall submit their address proof, mobile number and inform about the change in address.

Date : 28.09.2022
Wardha.

(R.V. Adone)
District Judge-3 and
Spl. Judge (POCSO Act), Wardha.

Certificate

“ I affirm that the contents of the P.D.F. file order are same word for word as per original order.

(S.V. Dakhane)
Stenographer (Grade-1)