

ORDER BELOW Exh. 1 IN SPL. (CHILD) CRI. M. A. No. 120 OF 2013.

The applicant is arrested by Sahakarnagar police station in CR No. 154/2013, relating to offence punishable under Section 376, 506 of IPC read with Sections 3, 4, 7 and 8 of The Protection of Children from Sexual Offences Act, 2012. The applicant claimed bail on usual grounds like innocence, false implication etc. It is contended that the victim was 14 years of age and she appears to be consenting party. According to the defence, there is difference in full name of parents and thus the complaint is suspicious. It is stated that on birth date certificate the name of victim is mentioned something else. In resistance, State has filed report. It is contended that the accused took away tender aged girl and had forcible sexual intercourse with her. The accused threatened her for not to disclose the things and twice repeated the act. Due to that, victim become pregnant. The investigation is still in progress and accused may tamper with the prosecution evidence.

2] Heard both sides and gone through police papers. The complaint is lodged by mother of victim on 28-08-2013. It is stated that in the month of June, 2013, victim said to her parents that accused is bothering her, hence the victim was not sent to the school thereafter. Prior to two days to the complaint, victim was vomiting, hence on medical examination it was found that she was pregnant. The parents took victim in confidence on which she disclosed that accused promised her to marry and took him to different places, once at the room of his friend and on other occasion on the terrace of the building had sexual intercourse. The police have recorded statement of victim. On perusal of statement, it is seen that victim has specifically stated that from one year accused used to follow her. He had promised her for marriage and took her to his friend's house and had intercourse. Then on second

occasion, he took her to the terrace of one building and again had sex with her. She said that accused threatened her for not to disclose the things. Thus the statement of victim specifically says the act of accused. Though the defence has stated that there is difference in the name of victim, that is not material aspect at this stage. The learned advocate appearing for accused has submitted that victim had voluntarily gone with applicant/accused and, therefore, he is entitled for bail. In this regard he relied on reported case of **Pravin Ashok Rakh Vs. State of Maharashtra, 2007 (1) B. Cr C 228**. In said case the then prosecutrix, who is a girl of 14 years of age stayed with accused for several days at various places. The prosecution was filed at the behest of family members and under such circumstances victim was released on bail. The facts of present case are quite distinct because herein the minor victim never stayed for several days with the accused. Time to time casually she was taken by accused at his friend's house and in one building and had sexual relations. Moreover, the statement of victim nowhere suggest that at the behest of parents, the complaint is lodged. The gravity is added that the victim is pregnant. Therefore, being distinct facts, the said observations which are restricted to the facts are not applicable to this case.

3] It requires special attention that birth certificate of victim says that her birth date is 10-07-1999 and, therefore, she was just 13 to 14 years of age. The victim had abandoned school in 7th standard and thus considering her tender age, she was not having maturity. Moreover, due to act of applicant/accused, victim became pregnant which is a serious matter. The medical certificate says that the examination suggest penetrative sexual intercourse. The victim has stated the history to the doctor about forcible sexual intercourse. Though there is a delay in lodgement of report, as per case of victim herself due to threat she kept mum and when her

pregnancy was disclosed she has stated the things to others. The said aspect needs consideration while considering delay and obviously it is part of trial. Still investigation is going on. The offence is of serious nature and the victim is barely a girl aged 13 to 14 years and pregnant from the act of accused. Considering seriousness of offence, I do not deem it fit to release accused/applicant on bail. Hence order.

ORDER

Application stands rejected.

Pune,

Dated/- 03-10-2013.

(Vinay G. Joshi)

Special Judge, Pune (Under Protection of
Children from Sexual Offences Act, 2012.)

"I affirm that the contents of this PDF file Judgment are same word for word as per original Judgment. Name of Steno : Shri. V. V. Bannur, PA. Court Name :- Shri. V. G. Joshi, District Judge, 01, Pune. Judgment Signed by P.O. on :4-10-2013 Judgment uploaded on :- 24-10-2013 Date of PDF file : 24-10-2013