

ORDER BELOW EXH.1

1] Perused application and say. Heard Advocate for applicant and APP for the State. Notice issued to first informant.

2] This is first bail application filed under section 439 of Cr.P.C. by applicant in respect of his arrest in C.R. No 59/2020 registered at Wanwadi Police Station for the offence punishable under sections 363,376 (2), (j) (n) of the Indian Penal Code and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that mother of victim aged about 15 years lodged report of her kidnapping. During investigation and after recording statement of victim it revealed that she was acquainted with applicant. Applicant proposed her and there was love affair between them. Victim did not want to marry with anyone else. So, she told about the same to applicant, applicant asked her to run away. On 5.2.2020, victim went away from house by telling that she was going to school and kept chit stating that nobody should search her and complain in police station. Victim and applicant wandered by car, on 6.2.2020 they garlanded each other and applicant wore marriage string to victim. They travelled by car and went in room took on rent by mother of applicant. They resided together and applicant committed sexual intercourse with victim.

3] According to applicant he is falsely implicated in this matter. It is a case of love affair. Victim knows the consequences of the act as she attended age of maturity. There was no force from the applicant. Victim left the house at her own accord. Applicant is 21 years old. Applicant is temporary resident of Hadapsar Pune and permanently residing at District Solapur. He has no criminal antecedents. He is ready to abide the conditions. Hence, he prayed to release him on bail.

4] APP and I.O. objected this application on the ground that investigation is in progress. Victim is 14 years old. Victim and applicant are resident of same locality. Therefore, applicant will pressurize victim and witnesses. There is possibility of tampering prosecution evidence. So, they prayed to reject the application.

5] Allegations against the applicant are serious. Applicant is sufficiently interrogated. From statement of victim role attributed to applicant can be gathered. It revealed that due to love affair victim and applicant were meeting each other. It prima facie appears that on 5.2.2020 victim went away with applicant at her own accord without telling family members and by keeping chit. They both eloped, garlanded and resided in rented premise where applicant committed sexual intercourse with her. Victim is about 15 years old and applicant is 21 years old. Victim has attained age of sufficient maturity and knows the consequences of act.

6] In this context Advocate of applicant relied on authority cited in **Bail Application No. 2632/2019 between Anirudha Radheshyam Yadav V/s. The State of Maharashtra, 2020 CLU 500** in which it is observed that so far as offences punishable under Section 4, 6, 8 of Protection of Children from Sexual Offences Act is concerned, it may be stated that the provisions of POCSO Act are, though, stringent in nature, would not deter the Court to grant or refuse bail in order to secure the ends of justice. The conduct of the victim is indicative of the fact that she had left the home of her parents by her own will and that she had surrendered to the physical desires of the applicant out of her love and affection for him. She has sufficient knowledge and capacity to know full import of what she was doing and had only thereafter voluntarily joined the complainant. Due to peculiar facts of case

bail was granted to applicant. In above cited ruling, victim was 14 years 11 month old and applicant was 25 years old. From statement of victim it appears that she left the house secretly with her belongings and travelled with applicant.

7] Ratio laid down in above cited ruling is noted. Medical report of victim shows history of love relationship with applicant and history of multiple episode of consensual vaginal sexual intercourse since November 2019 and victim ran away with applicant. Victim did not complain since beginning. There are no injuries on any part of body of victim. These are mitigating circumstances. Co-accused is released on bail. Charge-sheet is filed as investigation is over. Personal custody of applicant is not required. He has no criminal antecedents. He is only 21 years old. Applicant is temporary resident of Hadapsar Pune and permanently residing at District Solapur. No purpose would serve by keeping the applicant behind bar for unknown period. Due to all above reasons application deserves to be allowed with following order -

ORDER

- 1] The application is allowed.
- 2] The applicant Prakash Subhash Dilpake be released on executing P.R. bond of Rs.30,000/- with one or two solvent sureties in the like amount. One local surety be furnished.
- 3] The applicant shall not tamper the prosecution evidence in any manner.
- 4] The applicant shall attend each date of court proceeding.
- 5] The applicant shall not meet, harass, threat and pressurize the victim.
- 6] The applicant shall co-operate investigating machinery as and when required.

- 7] Prior to furnishing surety, the applicant shall submit his address proof, mobile number and inform about the change in address and mobile number.
- 8] The applicant shall submit list of three blood relatives with his detail residential addresses and addresses of their place of work.

Pune.
Date – 02.6.2020.

(R.V.Adone)
Addl. Sessions Judge, Pune.