

ORDER BELOW Exh. 1 IN SPL. CRI. M. A. No. 78 OF 2013.

The applicant, who is came to be arrested by Vishrantwadi police station in CR No.204/2013 relating to offence punishable under S. 472 of Indian Penal Code and Sec. 3 r/w 4 of The Protection of Children from Sexual Offences Act, 2012 has claimed regular bail. The applicant pleaded innocence, false implication, having no role in the incident etc. Besides that, it is contended that now the investigation is practically complete as police have recorded statements of relevant witnesses. Lastly, it is submitted that after going through FIR, it is revealed that at the most there was consensual sexual intercourse, if any. The State resisted bail by submitting report. It is contended that the accused had entered into the house of minor victim during night hours and had sexual intercourse with her. The investigation is in progress and if accused is released he would pressurize the witnesses.

2] Heard both sides and gone through the police papers. At the instance of complaint of mother of victim dated 12-07-2013, the offence was came to be registered. The complainant stated that on earlier night all the family members were slept in the house. Particularly, she stated that minor victim aged 16 years was slept on the bed. During mid night complainant woke up to answer nature's call and while she returned, she saw some movements in the quilt where her daughter was slept. The complainant suspected and on removal of quilt found that her daughter and accused were slept together in compromising position. She inquired with her daughter and learnt about sexual intercourse committed by accused. Hence complaint. I have gone through the statement of victim aged 16 to 17 years which was recorded after 3 days. She has stated that at relevant time accused entered in her house and rushed into the blanket and did the things. She said that accused said that he would marry with her, hence she kept mum. Prima-

facie, it reveals that everything was with consent as the same is the most probable and logical inference from the facts. The only thing is that the victim is below 18 years of age which would attract the penal consequence. There is no allegation of use of force or compulsion on the victim. Though victim has stated about promise to marry, prima-facie it appears to be not sustainable because the statement is delayed and there are other family members who were slept in the same room. I have gone through the medical examination report of the victim. She has stated that there was love affair of victim with the accused which also prima-facie suggest the consent of victim. The medical examination report suggests that there were no injuries on any part of body of the victim. Besides that the accused was arrested on 12-07-2013 and after facing custodial interrogation, he is in jail. The police have recorded statements of almost all relevant witnesses and investigation is practically complete. The victim is at the verge of majority i.e. she is of 17 years of age and there is prima-facie material which suggest her full willingness. The learned Advocate appearing for applicant relied on reported case of **Pravin Ashok Rakh Vs. State of Maharashtra, 2007(1) B. Cr C.228** wherein the Hon'ble Bombay High Court has observed that when the victim having 14 years of age, resided voluntarily with accused for several days, in that case after custodial interrogation accused can be released on bail. Taking into account stock of all these things, I deem it fit to release applicant on bail, after imposing certain conditions. Hence order.

ORDER

- 1] Application stands allowed.
- 2] Applicant is released on bail, on his furnishing PR bond of Rs. 30,000/- with one or two sureties of like amount.
- 3] Applicant shall attend concerned police station on every Sunday in between 10 a.m. to 12 noon, till filing of charge-sheet.

4] Applicant shall not enter within the territorial jurisdiction of Taluka Haveli, except the dates of attendance to the police station, till filing of charge sheet.

5] Applicant shall provide his residential address where he desires to stay during the period of restriction to the Investigating Officer.

6] Applicant shall not tamper prosecution evidence in any manner.

Pune,

Dated/- 24-07-2013.

(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, Personal Assistant.

Court Name : : Shri. V. G. Joshi, District Judge,01, Pune.

Judgment Signed by P.O. On : 24-7-2013

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