

ORDER BELOW EXH.1 IN CRI.BAIL APPLN.NO.3581/17

1] Perused the application and say. Heard Advocate for applicant and APP for the State.

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. 478/17 registered at Chaturshingi Police Station for the offence punishable under section 354,452 of the Indian Penal Code and under section 7,8 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that on 16.09.2017 first informant, her family members including victim slept at about 11.00 p.m. by closing the door of the house. Tube light was on. In between 12.30 a.m. to 1.00 a.m., first informant heard the sound of victim and when first informant saw, she found that victim tried to hold one person who was present applicant. Victim told first informant that applicant hugged her and moved his hand from her chest and back thereby outraged her modesty .

3] According to applicant he is falsely implicated in this matter. He is labourer and if remained in jail his life will spoil. He is permanent resident of Pune and ready to abide the conditions. His family members are dependent on him as he is only earning member in the family. So, he prayed to release him on bail.

4] APP and Investigating Officer strongly resisted the application on the ground that applicant is habitual as total four crimes are pending against him . So, if he is released on bail he will repeat the offence, he will threat and pressurize victim and witnesses. So, they prayed to reject the application.

5] Allegations against the applicant are serious. He was immediately arrested after incident on 17.09.2017. Since then he is behind the bar. Considering nature of offence and allegations against

him his personal custody is not required. So far as another crimes pending against him are concerned, Advocate of applicant relied on authorities cited in-

i] ***Maulana Mohammed Amir Rashadi Vs. State of U.P. and another reported in 2012(2) Mah.L.J.(Cri.)412***, in which it is observed that merely on the basis of criminal antecedents, bail cannot be denied. The court has to find out role of the accused, other circumstances such as possibility of fleeing away from the jurisdiction of the court.

ii] ***Janu @ Billa Malappa Pawar Vs. State of Maharashtra reported in 2006 BCI 179***, in which it is observed that merely because accused had criminal history, bail cannot be denied to him. Bail can be granted with stringent conditions.

6] Ratios laid down in above cited ruling are noted. In case in hand, prosecution submitted about the criminal antecedents. However, in view of above cited rulings, same cannot be the ground to deny the bail. Moreover, applicant is resident of Pune and ready to abide the conditions. His family members are depending on him. Therefore, no purpose would serve by keeping him behind the bar for unknown period. In view of above reasons, it is necessary to allow the application by imposing strict conditions and following order is passed -

ORDER

1] The application is allowed.

2] The applicant Vijay Shankar Gaikwad be released on executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount.

3] The applicant shall attend Chaturshingi Police Station on ever Monday between 4.00 p.m. to 6.00 p.m. till filing of the charge-sheet.

4] The applicant shall not tamper the prosecution witnesses in any manner.

5] The applicant shall not meet the victim and 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.

Pune.

Date – 26.10.2017.

(R.V.Adone)

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,

Court Name - Smt. R.V.Adone, Addl.Sessions Judge,Pune.

Date of Judgment - 26.10.2017

Judgment signed by P.O. - 26.10.2017

Judgment uploaded on - 30.10.2017