

**HIGH COURT OF BOMBAY****Bench: Justice Prithviraj K. Chavan****Date of Decision: 29th April 2024**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4297 OF 2021

**MEHRAJ @ MERAJ KADDAN KHAN ...APPLICANT****VERSUS****THE STATE OF MAHARASHTRA AND ANOTHER ...RESPONDENTS****Legislation and Rules:**

Indian Penal Code (IPC), 1860 – Sections 323, 328, 342, 354, 376, 377, 506(2) r/w 34

Protection of Children from Sexual Offences Act (POCSO Act), 2012 – Sections 4, 6, 8, 12, 17

Code of Criminal Procedure (Cr.P.C.), 1973 – Section 439

**Subject:** Application for bail under Section 439 of the Cr.P.C. by the applicant who is being prosecuted in connection with an FIR registered for various offences under the IPC and POCSO Act, based on allegations of sexual abuse and exploitation of a minor victim.

**Headnotes:**

Bail Application – Section 439 Cr.P.C. – Sexual Offences Against Minor – Seriousness of Allegations and Impact on Victim's Mental and Physical Health

– Application for bail by the accused, prosecuted for repeated sexual abuse and exploitation of a minor girl over a prolonged period – Court rejects the bail application, emphasizing the severity and gravity of the offences and the psychological trauma endured by the victim [Paras 1-22].

Evidentiary Value – Victim's Handwritten Notes – Consideration of Victim's Testimony – Court takes into account the detailed handwritten notes of the victim, which depict the horrendous and appalling nature of the crimes committed by the accused – Victim's testimony considered credible and significant in light of the explicit details and psychological impact described [Paras 17-21].

Role of Co-accused – Abetment by Accused's Wife – Involvement of Co-accused in Facilitating the Crime – The Court highlights the role of the co-accused, the wife of the applicant, who actively participated and aided in the commission of the offences – Observations made regarding the need for prosecution to seek cancellation of her bail [Paras 22-23].

Delay in Reporting – Consideration of Societal and Familial Pressures – Explanation for Delay in Lodging FIR – Court considers the delay in reporting the offences, understanding the societal and familial pressures faced by the victim and her family – Delay not viewed as diminishing the credibility of the allegations [Paras 19-20].

Decision – Bail Application Rejected – Held – The bail application is rejected in view of the gravity of the offences and the potential impact on the victim and society [Paras 24-25].

Referred Cases: None.

Representing Advocates:

For the Applicant: Mr. Sanjeev Kadam, Mr. Sandesh More, Mr. Nikhil Kamble

For Respondent No. 1 – State: Ms. Anamika Malhotra, A.P.P.

For the Intervener: Mr. Sudeep Pasbola, Ms. Ruchika Ghag, Mr. Shavez Mansoori, Mr. Sankalp Vichare

ORDER:

1. By this application, the applicant seeks his release on bail under Section 439 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), who is being prosecuted by Amboli Police Station, Mumbai in connection with First Information Report (for short "F.I.R") No.318 of 2021 for the offences punishable under Sections 323, 328, 342, 354, 376, 377, 506 (2) r/w 34 of the Indian Penal Code (for short "I.P.C") and Sections 4, 6, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

2. Facts of the case are as follows.

3. The first informant is the father of the victim. He deals in the business of furnishing. At the time of lodging an F.I.R, the victim was seventeen years old. On 3<sup>rd</sup> May, 2021, the victim eloped with the nephew of the first informant without informing anyone. The first informant, therefore, reported the matter to the Amboli Police Station and a crime bearing No.283 of 2021 under Sections 114, 363, 376 (2) (f) (n) of the Indian Penal Code and 4, 6, 8 and 12 of the POCSO Act was registered on 4<sup>th</sup> May, 2021.

4. Meanwhile, all the family members started searching for the victim. When they were searching her bedroom in order to find out some clue, they noticed a handwritten notebook of the victim with twenty seven full scape pages. Having read the contents of the said notebook, the first informant and his family members were shocked and flabbergasted to know that during their earlier stay at Shivshakti Co-operative Housing Society, near Dhake Colony, J.P. Road Andheri (West), when the victim was in 4<sup>th</sup> standard, she was repeatedly subjected to forcible sexual intercourse, rape as well as unnatural sex by the applicant. She was threatened by the applicant not to disclose about it to anyone, else, he would kill her. The notebook also reveals that wife of the applicant was hand in gloves with him in his all the aforesaid acts.

5. Even before discovering the said handwritten notebook, the victim had apprised her mother in the month of March, 2020 with regard the acts of forcible sex and unnatural activities by the applicant with her by administering some stupefying substance. The applicant used to insert his penis in her mouth and used to discharge semen. Many a times, while committing forcible sexual intercourse, he used to throttle her. The first informant's wife had apprised him of the frequent incidences, however, since several relatives of the applicant were residing in the same building, the first informant and his wife were under tremendous stress and scared of the applicant. They thought of the marriage prospects of the victim in future and also about the reputation of the family which is at stake in the society. For the said reasons, matter was not reported either to the Police or to any other member of the family. Even the victim was asked not to disclose the said facts to anyone. The victim was under tremendous stress and was always subdued and depressed. She was being treated by a Psychiatrist.

6. As such, on 3<sup>rd</sup> May, 2021, while reporting the matter to the Police, the first informant gathered courage to disclose past incidences qua the victim.

7. Investigating officer conducted investigation into the crime. Statements of the witnesses, parents of the victim and the victim came to be recorded. The applicant and his wife have been arrested. The victim was referred for medical examination.

8. The prosecution had tendered a report of the Psychiatrist from Dr. R.N. Cooper Hospital qua the victim. The handwritten notebook of the victim was seized under a panchanama. Statement of the victim under section 164 of the Cr. P.C came to be recorded by the Metropolitan Magistrate, Mazgaon, Mumbai. After the investigation, a charge-sheet has been filed.

9. An application for bail moved by the applicant before the Special Court under POCSO Act was rejected on 13<sup>th</sup> August, 2021 and, therefore, he approached this Court.

10. I heard Mr. Kadam, learned Counsel for the applicant, Ms. Malhotra, learned A.P.P and Mr. Sudeep Pasbola, learned Counsel for the respondent No.2 at a considerable length.

11. At the outset, Mr. Kadam would argue that the applicant has been falsely implicated in this case, which, according to him, is apparent from such an inordinate and un-explained delay in lodging a report against him by the father of the victim who was aware about the alleged acts of the applicant. Counsel would argue that the victim had eloped with her boyfriend resulting into lodging of the report dated 9<sup>th</sup> May, 2021. The victim had a history of eloping from her house time and again. She had friendships with several boys. She had shared her photograph with her boyfriend to another boy. Mr. Kadam would argue that even medical history given by the victim is quite strange.

12. Mr. Kadam submits that the applicant had accompanied the first informant and his wife to Delhi in search of the victim. He submits that when the victim first eloped with her cousin, the matter was reported to the Police on 4<sup>th</sup> May, 2021. However, on 9<sup>th</sup> May, 2021, present F.I.R (second report) came to be lodged making several allegations against the applicant which are totally false.

13. Mr. Kadam would further argue that the victim and the applicant were not on good terms since the victim treated the applicant like her enemy as the applicant tried to improve her by intervening in her immoral acts. It is contended that the victim had, therefore, concocted a story of continuous forcible sexual intercourse and unnatural intercourse and other unnatural activities qua the applicant. It is submitted that father of the victim was also on cross terms with the applicant due to some dispute of the society. He would argue that it is difficult to digest the fact that despite subjecting the victim to sexual exploitation by the applicant for more than nine years, neither any alarm was raised by the victim nor the matter was reported to the Police by her parents. The entire story has, therefore, becomes doubtful. The Counsel would submit that even the alleged handwritten notebook of the victim does not carry any evidentiary value in the eyes of law, much less, an admissible piece of evidence. Pre-trial detention of the applicant would be a punishment to him and, therefore, Counsel would pray for grant of bail.

14. On the other hand, learned A.P.P has invited my attention to the handwritten notes of the victim indicating gravity, seriousness and the perverse nature of the applicant, who had subjected the victim to continuous sexual exploitation, rape and unnatural intercourse. She would argue that all the illegal acts of the applicant had such a great psychological impact on the mind of the victim that she had an excessive desire of sexual activity resulting into making friendship with boys. The applicant took disadvantage of the fact that the victim's father was in Dubai who had reposed faith in him to look after his family. This is the reason for a delay in lodging the F.I.R. All the misdeeds of the applicant came to fore only after finding her notebook beneath the bed of the victim by the parents. Alleged act qua the other accused in another crime has nothing to do with the present F.I.R.

15. Mr. Pasbola who spoke in tune with Ms. Malhotra, was at pains to argue that the victim had been molested in such a severe manner by the applicant who is a man of bad character and had not only betrayed the trust of the victim who was girl of very tender age but also betrayed the trust reposed in him by the victim's parents. Mr. Pasbola would reiterate as to how the victim had turned nymphomaniac due to the acts of the applicant. He, therefore, strongly urged to reject his application, as according to him, it would badly affect not only the psyche of the victim but also would give a very wrong signal to the society.

16. This is a very peculiar case wherein it is alleged that the applicant had been subjecting the victim to rape, unnatural sex, oral sex, discharging semen by forcing his penis in her mouth, administering some stupefying substance which aroused her sexual desire and above all, threatened her of dire consequences, in case, she discloses his acts to anybody. Worst, his wife actively participated and assisted him in all his dubious and abominable crime for a continuous period of nine years ever since the victim was in 4<sup>th</sup> standard till lodging of the report.

17. Despite trying my best to encompass the pathetic plight of the victim in a nutshell, I am afraid, I could not, but to copy her hand written notebook which is unquestionably in her handwriting depicting the horrible, appalling and obnoxious crime committed by the applicant right from the days when she was a child studying in

4<sup>th</sup> standard till she attained the age of seventeen years. "I opened up to you and you judged me..."

kisine bhi mujhe nahi samjha, chalo aaj me likh deti hu saare raaz. Jabh me 4<sup>th</sup> standard me thi tabh i was brutally raped uske baad more 3-4 times exactly yaad nahi hai kitne baar but andaaza yaad hai ki bachhi thi na toh itna acchese yaad kaise hoga but pain abh tak yaad hai. Pehli baar i had so much pain usne mera gala dabake rakha tha ek haath se aur jabh bhi I had pain I used to cry jabh it was my 3<sup>rd</sup> time if I'm not wrong tabh me bohot zyada ro rahi thi but without any sound, toh tabh na usne meko ek chiz bola tha 'ke kabh tak aise royegi isse maza lene sikh' aur mene boli thi isse maza q? toh usne bola tha rona bandh kr aur dekh ek baar. Firr I think jabh 4<sup>th</sup> time tha tabh uske pass ek goli thi jisko khaaya tha like muu me rakha tha firr he used to kiss me very hard tabh I felt smthg but I don't remember exactly kya feeling thi woh but sach me pain feel nahi hua tha. Firr me ye batati hu ke me ghar pe ye sabh baat q nahi batayi bcoz I was trusting Allah ke woh ye sabh bandh karwa dega becoz me batati hu me exactly kya soch rahi thi, I used to pray to Allah ke woh mere bina kisiko bataye gharpe bata dega and me aisi thina ke I trust allah so much bachpan me, toh me Allah se maangte rahi dua but nahi hua ek bhi dua qubool aisehi woh saal guzar gaya, firr uske baad he gave me smthg to drink jo ki uske private part se nikla tha pr abh jaake mujhe pata chala that its called 'semen' toh 1 small glass usne mujhe pilaya zabardasti and it was bitter in taste like ajeeb sa hi tha jisse mujhe oolti bhi huyi thi firr use k baad jabh I drunk uske agle din me ---- ke pass gayi, uss time pe --- - hi sabse badi thi toh sbh usi ko puchti thi me, firr mene usko puch ki fala fala I drunk toh usne boli usse pregnant nahi hote but firr bhi woh accha nahi hai and shayad usse teko kuch bemari ho sakti hai bcoz usse ek insaan se dusre insaan me bohot kuch transfer hota hai, toh me rone lagi becoz I was scared usko thyroid haina isliye but aisa kuch bhi nahi hua I am fine. Then who oral Sex karwata raha abh tak, not that wala sex! So, Oral sex I got addicted after a year jabh me 6<sup>th</sup> me thi I started looking for boyz bcoz me aisa sochne lagi agar hawas hai toh ye Buddha q mujhe use kare koi aur kare aur meri marzi se ladko ke saath karti huna firr bohot ladke aay gaye but sabh mujhse bade hone chahiye jo mera usool tha toh I was enjoying mene apni life barbaad ki iss zid me ki allah meri help nahi karta tha like 6 saal usne mere saath ye sab hone diya q? And me allah ko gaali deti thi roz bohot zyada gaali deti thi aur bohot gandiwaali gaali aur rahi baat namaz ki toh mene sirf 2020 Jan se me acche se namaz padi aur jo uske pehle

jitna bhi padi usme me sirf action karti thi aur gaali deti thi namaz me allah ko me bolti thi tu samjh ta kya hai apne aap ko, tu kya meri life kharab karega, jo karungi abh me karungi aur mene ki bhi. Me thi helpless aur me isliye apni life ko serious nahi leti bilkul bhi. Firr 9<sup>th</sup> std se I started smoking ik din me 22-25 cigarette maza aata tha like stress relief tha mere liye ye first 8<sup>th</sup> std se mujhe hormones pe control hi nahi tha bilkul bhi jarrah bhi nahi like I get vibrations and I want a guy daily so that need to be fulfil. Jaise needs hote hai sabke hote hai like food, water, shelter wagera wagera mere usme lust bhi included hai. Agar me serious hu apni life me kisi chiz ko lekar toh voh mera dream + career hai baaki me shaadi isliye karna chahti hu there are 3 reasons, 1<sup>st</sup> love (I need), 2<sup>nd</sup> hangouts (I need), 3<sup>rd</sup> lust obvio to fulfil my daily need and mereko farq nahi padta that my husband will leave me etc etc, becoz mujhe pata hai meri life konse spot pe aake kharab hone waali hai becoz I know after my life partner get to know that I am not virgin he will leave me or either cheat me or either live with me but only for my dad's so called money and high standard koi bhi ladka kisi aur ka jhutha nahi paalega and that's completely agreed, isliye I don't care about anything. Mom roye, dad roye, bhai roye, mujhe farq nahi padta aur mene aisa khudko banayi hu ke I need to be stoned hearted for every single person in my family life and that's good I made myself that level ka strong jisko farq hi nahi padta ke koi mere saath hai ya nahi. Jo kuch hota raha sehti rahi. Khudko ajeeb banati rahi kudhko samjh nahi aata tha kya kar rahi hu buss kar rahi hu q ki aadat hai.

**THAT'S ME!**

1) Why you did?

See, I was in lust and I was not knowing that what I was doing and how I am making my self more in trouble.

2) What made you addict?

When something is happening with you either bad or good and it's repeatively more and more you are getting it then you get addicted to it. eg. He told me why do you cry everytime when I do this to you,



start having fun with it, and when it was my 3<sup>rd</sup> or 4<sup>th</sup> time I did not had any pain and I started liking it.

3) From when he started molesting you?

I was in 4<sup>th</sup> standard and from then the bad things started happening with me.

4) How much did it affect to your life?

I indulged into zina I know its bad but I was not mentally stable when I started so from then I was fearless of Allah, and it made my life hell. It was not that easy to make yourself allow to do the same things with different guys.

5) WhoM are you scared of?

I am only scared of Meraj becoz I don't want him to touch my body anymore.

6) What kind of feeling you get?

I get vibrations and I feel charged and I want someone to foreplay with me, my body starts shaking and I start sweating it's basically my personal need now.

7) Now also do you attract to boys?

Yes I get attracted to boys becoz I need permanent partner to fulfil my need when I'm in lust. 8) From when do you started all this in school?

When I was in 8<sup>th</sup> standard that was my first time when I had vibrations so I needed it someone to stop, so I started it in school too.

9) Is that your need?

Yes, obviously because its like don't give me food but I want that to live my life. eg; when my exam's starts so I don't have time to fulfil

my need so I smoke more like 1 entire box per day till my exams get over.

10) Do you want it to stop?

I think it's natural and it can't get stopped now it's too late to think about it but when it's out of control I slap my self I make cuts on my hand to have relief and to distract myself.

11) How did you started smoking?

I started smoking from IInd semester of my 8<sup>th</sup> standard.

12) Why did you started smoking?

Basically to control my hormones, and it is the best medicine to control your body especially your lust.

13) How and When did you drunk semen?

I was not knowing that it is called semen. Now I got to know that it is called semen. for me when I drunk a glass of semen was a discharge from meraj's private part and he forced me drink it was bitter in taste don't have have correct words to explain it perfectly and I was in 9<sup>th</sup> standard when I had that but while having, oral sex (BJ) it get discharge in my mouth but used to spit it.

14) From when did he started, giving you capsule?

I think it was in standard 5<sup>th</sup> I guess idk the year and exact time I can say when I had my 3rd/4th sex from then he started giving me capsule and from then only I love doing all that but not sex anymore, ya but oral is better.

15. Why you always abused Allah?

Becoz when I was small I used to believe on Allah, but then when sexual abuse started with me, why don't allah helped me and stopped every thing bad happening with me. From then I was upset and angry on allah till now so I started abusing him and stopped praising him..

16. Why don't you pray before in past?

becoz I don't praise any god and there is no god for me and I don't believe anyone anymore. he didn't helped me out what was my fault? Why I was raped and tortured? no one know the answers of my question.

17)Do you have fear of Allah?

No, not any more..... no more ....when he can't help me, he can't accept my prayers so why I should praise him and fear of him.

18)Why did you always fought with Allah in past?

Bcoz every night when I go to sleep I always ask him 'do I deserve all this' which happened to me? Every single night from past 4 years. I am telling him – I don't want this life please make me dead I am sleeping ryt now but 2morrow morning please don't wake me up! but as stubborn he don't listen to me and I can't tolerate this more. Before sleeping when I go to bed after the lights off I cry a lot I ask him several Qns and tell him please him to make me dead, why he don't?

19)Are you serious about your life?

No not at all, becoz I don't have fear of death but if I'm alive so the reason is I want my dream to be fulfil as youtuber and if it will not be fulfilled in this year 2020 I swear on Allah I'll suicide, I don't live anymore and I'm sure about my decision.

20)How many times you had sex (raped)?

As per my memory 5 to 6 times I guess with Meraj and uske baad ki life me I don't know, Brutally was 5-6, fun was not yet counted fun = oral sex not that one ha

21)How and when did you started liking oral sex?

When I pleased Meraj in 6<sup>th</sup> std when I had my menstrual started, so he decided to do oral sex and torture me becoz he know if he will

rape me again there are more chances of pregnancy. After that having those capsules and all that I started liking but not with him.

22)What made you stone hearted?

My family! beating, hitting, torture so they don't know my tolerance level and they were very toxic for me so I naturally started hating every single person around me and my loneliness made me stone hearted. 23)Are you Normal?

No not at all I am not normal eg. normal girls don't get vibrations and they don't think about lust but in my case its totally opposite.

24)Are you in Relationship?

Nope. I was but he cheated on me and he ended everything and now I'm not interested to have more heart breaks and more break downs. I don't want any bfs, I want my life partner I mean husband.

25)How many boy friends you had in past?

Relationship was less like 4-5 boys friends but in lust there were boys but I wasn't with them in relationship (jitna ko bhi bhai ne pakda wo sarre mere bf nahi the), (jitno ko bhi nahi jaanta woh saare bf hai 'sare ka matlab 5 ladke' unme se 1 kamar jiske bare me family jaanti hai but more 4 jo the hai nahi woh aaj tak secret hi hai) Q ki unse abh koi rishta hi nahi hai.

26)Are you virgin? If not then are you scared about your marriage?

"Nope becoze I was raped, I had sexual abuse but I am not scared about my marriage, B'coz I know at what point my life will be hell, if my husband get to know either he will divorce me, or be with me but cheating on me, or he will live with me for my dad's so called money and high standard.

27)Tell me something about your life plans?

‘Jeene ki chah toh hai nahi’ aur ‘na hi lambi umar ki’ buss agar sabh kuch sahi chata raha life me problems nahi aayi toh jeeungi warna mera bharosa nahi hai pr I know kabh life kharab hogi meri, agar husband ne chord bhi diya aur youtube sahi chal raha hoga to jeelungi warna sabh khatam.

28)Why do you cry so easily?

I am very emotional kind of person but not in front of people, when I have people around me I don't cry but when I am alone I cry a lot.

29)Are you happy?

No, jab tak I am not married I will never be happy, I need a person to love that's all.

30)Do you feel ashamed?

Yes, I guess ....I can't explain.

31)Why don't you sleep?

Whatever terrible things happened to me makes me awake and haunts me so I can't sleep.

32)Are you mentally stable?

Sometimes, I am not biut I have to pretend fine in front of family, becoz I don't have transparency with family to show my problems so I better hide.

33)Do you still remember, the pain?

I cannot forget I don't know why, I think becoz of night monsters.

The pain which he gave me, the weight of his on me, it was like pushing his body in my entire body. I remember the feeling he pushed himself inside of me.

34)How many times you thought about quitting i mean giving up?

The picture my brother saw was the one when I attempt suicide but I failed, I choked my neck with the dupatta in college I tried to jump from 2<sup>nd</sup> floor ----- caught of me and she joint her both hands infront of me and she said I still remember her words “haraam maut kabhi mat marna ----’, I will try to attempt successfully when I m in trouble inshallah.

35)Do you love yourself?

I fucking hate myself so much that I can’t explain it.

36)What do you think about your career, your dreams?

Me bhai ke aas me hu agar woh help nahi karega meri to fulfil my dreams toh wait karungi, shaadi ho jayegi uske baad karungi apna dreams pura.

37)Do you feel sorry for whatever you did in your past?

No ! I don’t, Bcoz agar allah woh sabh time pe bandh kar diya hota toh aaj me. woh sabh karti hi nahi, mere allah ko ek baat boli thi ‘tu meri life kya kharab karega, me khud meri life kharab karungi, Tujhe jitna kharab karna tha tune karliya, abh me karungi jo mere mann me aayega.

38)Whatever you feel do you keep it all inside?

Yes, I do becoz there is no one to understand me and I can’t share it with anyone.

39)Are you fine?

I am fine ! but I am not okay.

40)I got to know that you were secretly depressed!

Yes but I can’t share with you, I am sorry.

41)Do you want to discuss all of it with me?

Yes but verbally.

42)I must tell you, you need to move forward now !

I can't because of night monsters (secret).

43)Why do you trigger when someone wants to beat you? (I noticed it pretty well) (violence)

Because it remembers me 'choking my neck, slapping me very hard, kissing me very badly, eating my whole fucking body, bites on my back and on privates'. So when someone tried to hit me I try to keep my teeth on teeth and just controlling my awkward behaviour in front of that who wants to beat me.

44)Why do you always hide your inner storm by having fake smile wearing on your face?

Bcoz I try to hide my emotions in front of my family, I don't want them to know that I am broken, I am mentally disturbed.

45)Why are you so short tempered? Violence made me..... naturally.

46)Why do you like to make cuts on your hands?  
I can describe it in 2 words : Relief, Distraction.

47)You have two different life reel and real why? Reel - in front of my family, being at home.

Real – I am Abusive outside, I am slut outside.

48)Do you ever had toxic relationship?

Yes, He used to beat me, very very very psycho, I cant disclose his name but ya he was like that, very abusive etc. ....(secret).

49)Can you tell me something about Sajid's relationship with you?

As always I was in lust I tried to fulfil my need on him, he thought that it was my love but I think it wasn't, he took it very seriously, he still

loves me and he can marry me in any condition like if I'm divorced or I am mom, he will not marry to another girl I can bet, he wrote my name on his hand with knife and it's visible.

50)Are you desperate about kiss?

Yes, ask them who was with me in foreplay, they know I don't waste any single second I just want kisses. Every guy used to tell me 'bohot stamina hai'.

51)Do you have lust problem?

Yes and becoz of it I get vibration and I need to smoke.

52)What about that Delhi one zaid?

Woh ek mohra tha, jiske zariye hi me delhi me safe rehti, baaki mene kabhi usse pyar ki hi nahi thi.

53)Tell me about ----- and your bond?

Woh ek aisi frnd hai jo mere liye jaan tak de sakti hai, usne mere liye dosti me family chord di thi, Baaki toh sabh jante hi hai uske baare me.

54)Do you attract with both genders?

No, I don't.

55)Did you ever kissed a girl?

Yes, but it was a dare and I cant reveal that girl's name.

56)Did you remember your first kiss?

Of course, how can I forget that, I was so small, in 4<sup>th</sup> std, Meraj kissed me very hardly.

57)At what age you got you menstrual?



In 6<sup>th</sup> std I got menstrual, and it is very strange becoz no one can get their menstrual in small age but mom knows.

58)Why do you hide your real image / personality from family and society?

Family and society is not that open minded to accept, a girl addicted to 'Bad things. Sluts are not accepted in society.

59)Do you remember your nickname of your real life?

'-----' Every boy used to call me, but not now.

60)Tell me the secret about your name '----' and who gave you this name?

I got my name '----' on August 2019, I don't remember the exact date, but I know the month. I thought ki mujhe farishta mil gaya hai, Itna Accha Koi kaisa ho sakta hai, 'Gali nahi deta, aap se baat karna, Tameez-tehzeed, poore ghar ko lekar chalna, job karna, salary 1,25,000, mere sare nakhare uthana, chahe galti meri ho sorry woh hi bolte the, unki age 26 hai abhi, 'Gym freak hai kya body banaye hai bachne, ekdum hot, unki family se me mili hu zyaada dur nahi rehte hai 20 min lagta hai College se unke ghar ko, unki nani ke side me sabh jaante the mere aur unke baare me, pehle unki mom se mili thi toh aunty ne reject kardiye the firr me hijab me gayi thi milne tabh accept karliye the, unke 2 bahen hai, ek married hai, aur ek engaged – sasual jogeshwari me hai, unkedad nahi hai aur ek bade bhai bhi hai, mera banda was like over over over possesive, mujhe apni need puri karne hi nahi dete the like close nahi nahi aane dete hai who, forehead kiss and cheeks pe kiss, holding hands, hugs bus itna hi. Kabhi waise close aane hi nahi dete the bohot ladayi hoti thi meri iss baat pe, pr kabhi bhi nahi aane diye and kamar ko pehle se jaanti thi me woh mera frnds with benefit kind of tha toh me milti thi usse need poori karne ke liye. ek baar mere bandey ko pata chala idk kaise, unke haath me kamar ki pic, uske mere chat sabh kuch haath me leke aaye the agle din jabh mili tabh mere muu pe maare, woh bhi kiss karte huye, pics wagera kaise deal karti me, unhone puche '---' kya hai

ye?mene boli kya bole natak bandh karo, meko sab malum poori biography nikaal ke baitha hu uski, woh kaha rehta hai kya karta hai, ek din me nikala hu sabh samjhena tum, I told toh me kya karti meko jo chahiye woh tum dete nahi ho, and unka jawab uspe waah ----- mene na tumko uss nazar se kabhi dekha hi nahi, mera nahi mann karta kya I'm 26 mera tumse zyada mann karta hai, but me apni hawas tum pe ya kisi aur pe q utaarun? Allah sabh dekh raha hai, aaj me tumhare saath karun, kal ko koi meri bhen ke saath karega and me 5 waqt ki namaz padta hu and you know it and meko tumse ye umeed nahi thi yaar, abh bhi itna khsuh mat ho, me tumko nahi chod raha hu aur na kabhi chodunga tumko na me apni jaan se zyada pyar karata hu matlab na uss ko subh pata hai me naraz hu toh sorry boldega khudh hi mere fav

CCD ke fries le aayega jabh bhi na aayega milne, job chodke milne aayega Hafte me 3 baar, milega job chodke aata tha milne aur mene kya ki take it for granted lete gaye bandey ko, kamar ke liye usko chodi, kamar aur mujhe sirf 2 months huye the relationship me usse pehle woh mera bst-frnd with benefit tha pr jabh family ne pucha toh mene 1 year batadi, almost 1 year hone hi wala tha frndship ko waise toh and when he knew I'm dating kamar rote rote aaya bola last baar milo pls, me mili haath jodke ghutne pe baitha mere saamne woh, bohot bura, toh lag raha tha but kuch smjh nahi aara tha us time bolne laga Jism hi chahiye na thik hai tum jo bologe me woh karunga, tumko jo chahiye woh laake dunga bola I'm sorry abh.

74)Do you think you are different from other girls?

Yes, hogi shayad meri tarah aur ladkiyan pr aaj tak mili toh nahi mujh jaise pr pata nahi but I think I am different normal lidkiyan lust aur vibrations ye sabh unhe hota hi nahi hoga idk.

75)Why do people judge you very quickly?

I don't know, ---- = bad girl I don't care and its my strength, whatever people want to think about me it's their choice, I cannot go and shut their mouth, so its better to ignore.

76)Why do you want to quit your life so early?

I know Future me kya hone wala hai agar husband ne chordiya aur channel acha chal raha hoga tabh jeeungi warna no I can't live aur waise bhi I am 24/7 stressed but I don't show and I am a kind of person jo pyar ke bagair reh nahi sakti but jaise now I am ready for arrange marriage toh abhi I don't need jabh tak koi achha rishta nahi aajaata. Baaki it's secret. 77)What do you think about yourself?

I know I am bad girl, I know so many people have problems becoz of me, me pehle jaise thi, woh abh me rahi nahi aur abh jo hu, wo kisi ko pata nahi. I am broken, I am hurt, I am sexually assaulted, I am sexually abuse, I am molested, I am harassed, I am broken, I am mentally tortured, I am myself a problem, becoz of all of these I am not normal girl anymore and now I can't be normal, I act normal becoz I have strength that I don't show my problems sabhko lagta hai I am doing acting this that, pr jispe beetti haina usko pata hota hai dusroka dard jabh tak samjh nahi aata jabh tak apne pe beet ti hai.

78)Your view point on your body !

Mujhe Sabh kuch bachpan me hi pata chal gaya tha jo mujhe abh jaake pata lagna chahiye 4<sup>th</sup> std me he started everything our 5<sup>th</sup> me mere private parts mature hogaye, big butt, heavy breast wo umer me, jis umar me woh sabh bachho ko pata hi nahi rehna chahiye Bcoz of everytime sex vagina became loose, mujhe Khudh pata nahi chala me itni badi kabh hogayi, bachpan ek jahannuum tha, pata hi nani chala kabh bachpan katt gaya. Lower back ka Curve kya hota hai woh Sabh bachpan me hi pata chal gaya, Lock is only made for key woh bhi pata chal gaya breast is made for sucking who bhi pata chal gaya, private parts ka kya kaam hota hai who bhi pata chal gaya, Blowjob kya hota hai handjob kya hota hai q hota hai sabh bachpane me pata chal gaya, jo nahi karna tha woh bhi kar liya, hard bites kya hota hai, love bites kya hota hai private hickeys kya hota hai sabh bachpan se experienced hai. Body ko q aur kaise khaate hai sabh pata chal gaya.

Zindagi jahanum se kam nahi thi aur kya kuch nahi sahi hu me, mera rab aur me jaante hai sabh buss. Why I was Quiet?

I hate my childhood, I am very happy being 17 year old, and I never want to be a child again. Today I will be talking about my journey

and how I got to this point, I have a memory, I think I was about 8 years old, I remember when I was playing with my friends how I got indulge into his trap, he called me 'beta idhar aa', I went he was playing with me, he was nice, we became friends in a matter of about 10 mins, soon I see he opens up his 'pyjama', he takes out his penis and asks me to hold it I denied, he forcely took my hands and made me hold his penis, I hold and I still remember as I tell you this my body is shaking because this memory triggers me off, I still remember his penis being warm clammy and fat, I felt something but he kept saying I was doing good job, I was a good girl, I was an obedient girl I was listening to him he was very proud of me he played with me and I played with him it didn't feel weird, it didn't feel odd at all this continued for about 20 to 25 mins till he was done with me, I have been repeatedly molested over the years till the age of 16 some continued for weeks and months and some were depending on the minimal chances to catch me. (I was molested by both men and women, his own wife use to touch me, grab me wierdly and allowing her husband to play with me.) People think that molestation is primarily done by men and that we are all safe with women people are wrong we aren't I am living proof. After reading this you will feel uncomfortable, yes people are uncomfortable because they know this is wrong, I didn't for me molestation/seduction and brutally making sexual contacts meant I made a connection these were often people I trusted people I liked they were happy with me, they gave me appreciation, they even gave me love I spent a lot of time thinking I was just giving back to him this was relationship we shared, it was our secret that would even threaten me if you told anybody nobody will believe you 'kisiko bolna mat' I kept Quiet and then this continued for years on end now a lot of people and you are thinking why did she kept quite, why didn't she speaks up, why didn't she scream shout, find this uncomfortable, well let me tell you a little bit about what leads girls like me to keep quiet, I was a shy child, I was introverted I was quiet, I was being bullied at school, I was not popular, I had no friends, in fact I was being bullied by teachers as well, I was a poor student and we all know what happens to children if they are not good academically, I was not even a 40%, I was barely made a pass mark after giving reexams, teachers would mock me teachers would make fun of me, I remember in class 3<sup>rd</sup> standing for hours outside the staff room because my teacher told me you are a failure,

you don't deserve to sit with other children, you are dumb, you are stupid, these are some of the things I heard throughout my whole school life. I learned to internalize it, I thought I'm a failure I'm dumb when I was being molested by people I cared about that was my happy space, yes you heard right that was my happiest space, I felt at least he appreciate me, I couldn't talk to mom and dad because I was a sensitive child I knew my mom wasn't meant for me so I didn't want to add to it and I couldn't even understand if this was right or wrong look back to your life, we don't know if this is wrong or right, sometimes we are confused because this was before the days of good touch and bad touch, before the days parent told us come to me if somebody does this to you. They trusted people we trusted people I was being bullied I was lonely I was unhappy therefore I allowed the molestation and rape to continue, I didn't know that what to do I approached a teacher to tell her about the bullying about the abuse I was facing and she told me that man see if you ever tell anybody nobody will believe you everybody will think I 'banake bol rahi hai' that was the first and the last time I opened up the only other person who have share this with is my " " she told me I was a loser I was a failure academically and I was looking for excuses not to study and if I continued this way I would grow up and be a drug addict but I am smoke addict and " " addict becoz of that pills I have no idea what the connection came from but that's what I was infact in class seven my teacher stood me in front of an entire class and said whoever wants to be academically successful don't talk to -----, this is the girl you don't want to talk to, I don't know why I didn't say a word I would just keep quiet soon I reached class nine and one of the days when I was being bullied no before than sorry. I forgot to mention this I stared turning to food as a way of comforting myself, food is a big thing so I turned to food I would go up to about one loaf of bread a day I became 57 kgs at the ages of 14 or 15 what happens to obese teenagers they get picked on they get bullied right and what happens when they get bullied they withdraw within themselves they become depressed, they became anxious I would often get told by peers oh look at ----- she looks like a potato even teachers told me insulted mee everytime, slapped me in corridor, that's the kind of things I was told and I faced I didn't say a word becoz they were right in class tenth I had melt down I wanted to go as far as I can go from these people I even my own family, I broke down I told

my teacher I don't want to be her i started to cry, because this was after an episode of bullying I remember she sat me down and, and she said ---- when I teach maths I look at you and I say this girl has the most beautiful smile I heave ever seen people that was my first compliment the first time somebody had said something nice to me I started healing my journey started that created a crack in the self esteem I built which was zero I hated myself, if you ask me what to do want to grow up and be I would have laughed and told you a 'failure' and then I went to college thankfully in college I made a good friends somebody who didn't knock my story who didn't tell that oh my god so much negativity, but then after a year passed each and every friend ditched me and went far away from me and I had such a bad toxic relationship, he emotionally and mentally broke me by his words "he said - you are not the sparkle I was looking for, you are not beautiful as I thought. he insulted me in such a bad way. I cannot express.

My soul was broken being molested by everyone and being raped with that single person again and again and I was bullied and body shamed yes I hate my body my face and overall me, the one thing that gives me confidence is only makeup. People think that I am mad I talk to myself ya this is the reason I want a 2<sup>nd</sup> person in my life. The one who knows me better is only me I know I am Emotionally dependent on my partner I can't live alone. This is because I don't have normal life, I am not a normal girl I know I am bad, this is all are my problems. As always I pray for my death, before sleeping the one prayer I pray is "ya Allah please don't wake me up next morning, I want everyone to cry for me and pray for my Janaza I know I will never enter Jannat but I am not scared of being punished by Allah bcoz sabhne Zubaan ki baatein suni hai sirf Allah ne dil ki baat suni aur samjhi toh usse pata hai mene kaise aur q ki saare gunah. Yes, I have no fear bcoz I know this world is not for me.... I wish I die today I hope he is listening to me. Today my mom told me she also pray for my death and I am happy that she prays that becoz Allah is not listening to me, he will listen to my mom's prayer, Aameen! It's been 17<sup>th</sup> year of my life I don't know what's happiness, I don't know what's family, bonding, love, care etc. I don't what mom's Love, dad's love brothers love. Me meri family ka bura nahi chahti buss me chahtihu ke koi ho jo mujhse pyar kare and me usse engaged bhi hona Chahtihu (yes arrange marriage) but engagement abhi hi bcoz

koi nahi samjh sakta ki me q akele nahi reh sakti. I just want a normal life !!!!!!! . Shhh..... shh.....I will all be okay !

Forget it, shut it, forget he is a good man has a family 3 kids, it must be a temporary glitched. Forget it, let go, let it go. holding on.

Even if you feel like burning then patches of bites on your skin, his fingers has only pressed and passed through you are a child just a child it will all be okay! He is a good man. Don't worry, we wont leave you alone with him again hush this stop crying. Think that you felt down from your bicycle the other day and that's the pain you have stop making a sound. Never tell if anybody asks you. He must be stressed out or out of his mind. He is a good man. Stop crying in the corner stop shricking in the middle of the night you are disturbing all of us and our sleep. Remember never tell. Remember forget stop shouting when someone touches you, stop being shame. it is a shame it is shameful what happened but don't tell to anyone. It only exists in your mind. If nobody knows there's nothing justify you, common get over now it happened a week, a damn 6 yrs ago now why you are scared and disturbed. now why do you start shaking your body when you hear his name. He is a good man. He is a good old man. now you don't have any scars so stop being ashamed stop.

It's okay to cry.

I want you to know that crying doesn't mean I am weak. It actually means that you are strong from so long carrying a weight, weight on your shoulder and I want you to know that it is okay to cry. It is safe for you to live. If you look at the river what it does it just flows over. just like that you can allow yourself to cry become that river, let your tears just washed away your burdens your pain let it cleanse. Why would tears be something bad? When the element of water that washes the pain. Why would be the tears be something bad? When the world is also made from ocean water And most of you love beaches and let me tell you your tears are like beach! beautiful, you don't have to keep your tears until one day it will break and comes out painfully. you can allow yourself like gently go for it. Allow yourself to feel everything. The good the bad. The one of the bravest thing. So now you are ready, I

hope you find the courage to let go and let the tears flow, wash the pain! (I opened up to you and you judged me)”

18. Having read the entire text, I do not think anything more is required to be said, for, words will fall short to describe the mental, psychological and physical state of the victim and the impact of the ordeal she had undergone at the hands of the applicant. The crime alleged to have been committed by the applicant is not only shocking the conscience of any prudent man but it is also obnoxious. Due to such horrendous crime, the victim has turned on as a nymphomaniac.

19. Father of the victim and the first informant as well as her mother, in their statements recorded by the Investigating Officer narrated as to how the applicant had betrayed their trust by taking undue advantage of the fact that the first informant was working in Dubai. They realized about the crime only when they discovered the aforesaid handwritten notebook of the victim underneath her bed. The statements reveal that though they came to know about the misdeeds of the applicant, nevertheless, due to the fear of getting defamed in the society and in order to avoid harm to their reputation, they did not disclose about it to anyone. They were also worried about her future marriage prospects. This is quite obvious and cannot be viewed with suspicion in light of the fact that the offences were being continued unabated till the notebook was found by them.

20. The first informant and family seem to be quite religious one with strong belief in their traditional doctrines of religion, as has also been reflected in the handwritten notes of the victim. It seems that the victim had full faith in Allah who would impart justice one day or the other as no one had come forward to rescue her. Obviously, the first informant and his wife refrained themselves from reporting to the Police or others that does not ipso facto mean that this is a concocted story engineered by the first informant as sought to be argued by Mr. Kadam.

21. Turning to the statement of the victim who was seventeen years at the time of registration of crime had categorically narrated her plight which has already been depicted in her handwritten notes. The statement reveals as to how, for the first time, she was called by the applicant in his Room No.502 and by having a sweet talk and offering her chocolates, removed his



trouser and asked her to put his penis in her mouth and thereafter tried to insert his penis in her vagina. At that time, he had throttled her by threatening of dire consequences. Due to fear, the victim could not narrate the said act to her mother. Thereafter, whenever the applicant used to get an opportunity, he would repeat the same things and used to ask her to retain his seminal fluid in her mouth. On one occasion, the applicant had dragged the victim in his Room No.502 and closed the door from inside. He removed her clothes, put his penis in her mouth, discharged semen and recorded a video of the said act. At that time, applicant's wife held her hands. The applicant, thereafter, threatened the victim that he would make the video viral. Sometimes, he used to administer her white coloured pills in a cold drink, due to which her sexual desire would arouse.

22. Role of the wife of the applicant as reflected from the statement as well as handwritten notes of the victim is quite apparent as she had abetted the offences alleged to have been committed by the applicant. Rather, it appears that she had intentionally aided and abetted the illegal acts of the applicant. Wife of the applicant had held hands of the victim while applicant committed illicit and unnatural acts. She appears to be equally guilty. It is not clear whether the prosecution has taken any steps to seek cancellation of her bail granted by the trial Court. Act of the applicant's wife falls within the ambit and scope of Section 16 of the POCSO Act which is punishable under section 17 of the said Act.

23. Her statement further reveals that when she was in 10<sup>th</sup> standard in 2020, she had disclosed the said fact to her mother, however, her mother asked her not to disclose it to anyone. Her father was in Dubai at the relevant time. Since the victim was totally devastated, she went to Delhi along with her friend. At that time, the Police team which came to Delhi in search of the victim was also accompanied by the applicant and, while returning to Mumbai, in the W.C of the compartment, he attempted to repeat the same acts.

24. In October, 2020, he had given a SIM card to the victim and asked her to call him from the said number. On five to six occasions, he forced her to come to Room No.502 at Shivshakti Cooperative Housing Society, near Dhake Colony, Andheri (West) and subjected to forcible sex. His wife

inevitably used to accompany him to assist in his acts. On one occasion, he demanded an amount of Rs.2,00,000/- from her, else, threatened to make the video viral. There are several allegations against the applicant, however, it is needless to go into the other aspects as the Trial Court would look into all the allegations levelled by the victim.

25. The victim was referred for medical examination. History given to the Medical Officer needs to be reproduced in brief which reads thus;

“S/B SMO Aditi Dr. RJW

History given by survivor and is Reliable

The survivor -----17 years gives history that she knows the accused and Mr. Mehraj Khan since childhood. When she was in 4<sup>th</sup> standard the accused has assaulted her since childhood with 5-6 times Vaginal intercourse and multiple times anal intercourse. The accused used to threaten her for kidnapping, beating etc, history given of dragging, beating and terrorizing. No history of anal intercourse given by survivor. The survivor lives with her family (mother, father and 2 elder brothers), they were staying at JP Road Andheri as neighbour to accused. Accused also used to give her unknown tablets in childhood. Accused is married with a wife and 3 children. The accused and his wife also used to take videos and photos of the survivor. The survivor shifted to some other places in Andheri in October, 2020. Since then the survivor gives no history of sexual assault. The accused was blackmailing her for videos and photos and was taking money from the survivor which she used to steal from house around 50,000/- cash. Personal h/o menarche attained at 12 years LMP 17/06/2021 Cycles have been irregular moderate bleeding”.

It is clear from the medical report that victim had an old hymenal tear. Obviously, there could not be any fresh injuries in light of the fact that the victim had become habitual to sexual intercourse who is now seventeen years of age. No wonder, due to such devastating experience, the victim has literally become Nymphomaniac.

26. The most crucial document on record is the report of a

Psychiatrist. The victim was examined by Dr. Chetan Devidas Rathod who is a Psychiatrist attached with Dr. R.N. Cooper Hospital, Mumbai. It would be apposite to extract the report which is self-explanatory;

“Index survivor states she was staying in her house with her family members in andheri west. She is been abused by alleged neighbour (Mr. Miraj Khan a 45 year old male) who lives in same building, who had sexually abused her regularly against her will, He used to ask her to touch his penis, he forced her into peno-oral and peno-vaginal intercourse, 2-3 times a week since she was 8 years old to 16 years of her age [Till 2020]. Last year survivor shifted home with her family. Since then from last 1 year neighbour is blackmailing her saying he would release videos and photos of her in the act, if she takes action against him, she reported incident to her mother but not supported by her, so she contacted alleged Sayeed Khan who is her cousine brother. He assured her all help. After that he took her to Lucknow without informing her family members. There paternal uncle asked her to marry his son, on pretext of citing not a real marriage, she was told to sign papers in a masjid in lucknow. Even after her resistance, she was forced to marry with accused on 8<sup>th</sup> may, 2021, After marriage accused forced her into penovaginal intercourse 2 times without protection and she was locked in a room for 1 month, she was not allowed to contact anyone. 5 days back police caught survivor and accused from Amethi in UP and they were brought back to mumbai.

Patient is experiencing Symptoms of postTraumatic stress disorder like flashback, anxiety and sleep disturbances on recalling details of incident, However with support from family symptoms have decreased.

Denies any pervasive sadness of mood.

Denies any suspiciousness, hearing of voices.

Denies any elevated mood, tall claims.

Denies any head injury, seizure. Denies any substance use”.

27. A statement of the victim came to be recorded by the Metropolitan Magistrate under Section 164 of the Cr. P.C. The victim had reiterated what

had been already stated hereinabove. The victim had, inter alia, stated as to how she penned down her plight in her handwritten notes which are referred hereinabove. She states that one day or the other, even if she is alive or dead, her parents would know her horrible experience which she had undergone during all these years.

28. It is, prima facie, evident from the material placed on record that the applicant had not only committed penetrative sexual assault qua the victim in view of section 3 (a), (7) and (11) but also liable for punishment in view of Sections 4, 6, 8 and 12 of the POCSO Act apart from Sections 377, 376, 354, 342, 328, 323, 506 r/w 34 of the I.P.C. Relevant sections are reproduced below;

“3. Penetrative sexual assault. - A person is said to commit "penetrative sexual assault" if- he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(a) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(b) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

(c) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

7. Sexual assault.- Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.

“9. Aggravated sexual assault.-

(j) whoever commits sexual assault on a child, which-

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (l) of section 2 of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

(ii) inflicts the child with Human immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

(k) whoever, taking advantage of a child's mental or physical disability, commits sexual assault on the child; or

(l) whoever commits sexual assault on the child more than once or repeatedly; or

(m) whoever commits sexual assault on a child below twelve years; or

(n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or shared household with the child, commits sexual assault on such child; or

(v) whoever persuades, induces, entices or coerces a child to get administered or administers or direct anyone to administer, help in getting administered any drug or hormone or any chemical substance, to a child with the intent that such child attains early sexual maturity,] is said to commit aggravated sexual assault”.

29. In the case at hand, apart from the ingredients of section 3 (a) and 7, ingredients of clauses (j), (i) (k) (l) (m) and (v) of section 9 of the POCSO Act are precisely attracted.

30. It would be apposite to refer the “Guidelines & Protocols – Medico-legal care for survivors/victims of Sexual Violence”, which read thus; “21. Provisional clinical opinion

. Drafting of provisional opinion should be done immediately after examination of the survivor on the basis of history and findings of detailed clinical examination of the survivor.

. The provisional opinion must, in brief, mention relevant aspects of the history of sexual violence, clinical findings and samples which are sent for analysis to FSL.

. An inference must be drawn in the opinion, correlating the history and clinical findings”

. Guidelines for responding to children read thus:

“ The prevalence of child sexual abuse in India is known to be high. A National Study on Child Abuse conducted by the Ministry of Women and Child Development showed that more than 53 per cent children across 13 states reported facing some form of sexual abuse while 22 per cent faced severe sexual abuse. Both boys and girls reported facing sexual abuse.

. Most commonly, abusers are persons who are well known to the child and may even be living in the household. Children are considered soft targets for sexual abuse because they may not realize that they are being abused. Abusers are also known to use chocolates and toys to lure children. Further, children are more easily threatened and less likely to speak out about the abuse.

While the principles of medical examination and treatment for children remains the same as that for adults, it is important to keep some specific guidelines in mind:

. In case the child is under 12 years of age, consent for examination needs to be sought from the parent or guardian.

. Children may be accompanied by the abuser when they come for medical treatment, so be aware and screen when you suspect abuse.

In such situations, a female person appointed by the head of the hospital/institution may be called in to be present during the examination.

. Do not assume that because the child is young he/she will not be able to provide a history. History seeking can be facilitated by use of dolls and body charts.

. Believe what is being reported by the child. There are misconceptions that children lie or that they are tutored by parents to make false complaints against others. Do not let such myths affect the manner in which you respond to cases of child sexual abuse.

. Specific needs of children must be kept in mind while providing care to child survivors. Doses of treatment will have to be adjusted as required in terms of medical treatment. For psychological support, it is imperative to speak with the carer/s of the survivor in addition the survivor themselves.

. Health professionals must make a note of the following aspects while screening for sexual abuse. Assurance of confidentiality and provision of privacy are keys to enabling children to speak about the abuse. However genital and anal examination should not be conducted mechanically or routinely. A few indicators for routine enquiry are -

- Pain on urination and/or defecation
- Abdominal pain/generalized body ache
- Inability to sleep
- Sudden withdrawal from peers/adults
- Feelings of anxiety, nervousness, helplessness
- Inability to sleep
- Weight loss
- Feelings of ending one's life

31. As has been rightly stated, most commonly, abusers are persons who are well known to the child and may even be living in the household. The

victim indeed was a soft target for the applicant to abuse her sexually as she could not have realized the fact that she was being abused by the abuser. The guidelines further reveal that abusers are also known to use chocolates and toys to lure children which had been exactly done by the applicant when he first molested the victim. The children, as has been stated, are more easily threatened and less likely to speak out about the abuse.

32. Above all, the guidelines also indicate that children may be accompanied by the abuser when they came for medical treatment, and, therefore, it has been observed that the concerned should be aware and screen when they suspect abuse.

33. I am conscious of the fact that this is an application for bail and it is needless to delve deep into the merits and demerits. Nevertheless, one cannot lost sight of the purpose and object of enacting the Protection of Children from Sexual Offences Act, 2012. The POCSO Act has been enacted since sexual offences against the children were not adequately addressed by the existing laws and a large number of such offences were neither specifically provided for nor were they adequately penalized. Special Courts have been established for trial of such offences and for matters connected therewith and incidental thereto. While enacting the said Act, Article 15 of the Constitution which empowers the State to make special provisions for children, and the Convention of the Rights of the child, adopted by the General Assembly of the United Nations, as acceded to by the Government of India, prescribing a set of standards to be followed by all the State parties in securing the best interest of the child, were also kept in view. The POCSO Bill intended to enforce the rights of all children to safety, security and protection from sexual abuse and exploitation, and also intended to define explicitly the offences against children countered through commensurate penalties as an effective deterrence.

34. A corollary of the aforesaid discussion is that this is not at all a fit case to admit the applicant to bail. To do so would tantamount to further aggravate and fester the wounds of the victim which are still fresh in her mind, body and soul. Apart from these aspects, looking to the nature and propensity of the applicant, likelihood of repeating similar offence cannot be ruled out. It is



quite possible that in case of his release, the applicant may threaten and coerce the victim and her parents.

35. The Trial Court is directed to frame a charge at the earliest and shall, thereafter, proceed with the trial of the case without granting unnecessary adjournments to any of the parties.

36. Needless to state that these are, prima facie, observations sans merits and demerits. The Trial Court shall not get influenced with these observations at the time of trial.

37. Now, to the order.

: O R D E R :

Application stands rejected.

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