

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2640 OF 2015

Manoj Jaiwant Phatak

... **Applicant**

Versus

The State of Maharashtra

... **Respondents**

Mr. P. D. Bachate, Advocate for the applicant

Mr. U. S. Mote, APP for the Respondent-State.

CORAM : V. M. DESHPANDE, J.

DATE : 10th June, 2015

PER COURT :

1. Heard Mr. P. D. Bachate, learned counsel for the applicant and Mr. U. S. Mote, the learned Additional Public Prosecutor for the State.

2. By the present application, the applicant is seeking pre arrest bail since he is apprehending arrest in connection with Crime No. 117/2014 registered at Police Station Kurunda, District Hingoli for the offences punishable under Sections 342, 363, 366, 376 (I) (ii) (iv), 504, 506 read with 34 of the Indian Penal Code, 1860 and Sections 3(i) (xi) (xii), 3(2) (v) of the S.C. & S. T. (Prevention of Atrocities) Act.

3. The first information report is dated 29.12.2014. It is lodged by Dhulba, father of the prosecutrix. In the first information report, name of the applicant is not at all taken. Merely because name of the applicant is not taken in the first information report, that by itself is not sufficient for the applicant to claim discretionary relief of anticipatory bail from the Court. Learned Additional Public Prosecutor submitted that statements of Dhulba, the first informant and prosecutrix are recorded during the course of investigation. Investigation paper shows age of prosecutrix 19 years. From the statement of the prosecutrix and also from the statement of Dhulba, the first informant, it is crystal clear that there are no allegations whatsoever in nature against the present applicant. All the allegations are against one Sanjay Jaiswal and it is reported that he is behind bars.

Allegation of sexual assault are specifically made against said Sanjay Jaiswal. The only material available against the present applicant is that the place where at alleged sexual assault took place belongs to the present applicant. However, there is no material on record to show that at any point of time, the present

applicant was aware that the main accused Sanjay Jaiswal will misuse his place. In view of the matter, I see no reason as to why discretionary relief should not be granted against applicant. Consequently I pass following order:

ORDER

- i. Criminal Application No. 2640 of 2015 is allowed.
- ii. Applicant Manoj Jaiwant Phatak shall be released on bail in the event of his arrest in connection with in connection with Crime No. 117/2014 registered at Police Station Kurunda, District Hingoli for the offences punishable under Sections 342, 363, 366, 376 (I) (ii) (iv), 504, 506 read with 34 of the Indian Penal Code, 1860 and Sections 3(i) (xi) (xii), 3(2) (v) of the S.C. & S. T. (Prevention of Atrocities) Act on he executing P.R. Bond of Rs.5000/- (Rs. Five Thousand only) with one solvent surety in the like amount.
- iii. With this the application is disposed of.

(V. M. DESHPANDE, J.)

JPC