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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6247 OF 2015

Alka w/o Raju Gaikwad

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr P.M. Gaikwad, Advocate for applicant;

Mr R.V. Dasalkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 15th December, 2015

ORAL ORDER :

By the instant application under section 438 of the Code of Criminal Procedure, the applicant - a woman, seeks her release on pre-arrest bail, in connection with C.R. No.109 of 2015, registered with Mantha police station, for offences punishable under sections 376, 342, 506 read with sec. 34 of the Indian Penal Code.

2. The applicant is named as one of the accused in the said crime.

3. Learned Counsel appearing on behalf of the applicant, while trying to make out a case for grant of pre-arrest bail, would urge that the alleged incident as is narrated to have taken place on or about 6th/7th October, 2015, for which the first information report was lodged on 17th October, 2015. Learned Counsel would submit that there is hardly any explanation on record for the delayed first information report. Apart therefrom, according to the applicant, the victim, along with her husband, with whom

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she had love marriage, was residing as a tenant of the applicant and the role attributed in the first information report as against the applicant is that she has introduced the victim to one Ujwala Guntur, who later on took the victim to the main accused Umesh.

4. It is required to be noted here that, according to the learned Counsel, perusal of the first information report, which *prima facie* depicts improbable accusation against the applicant. The fact remains that when the victim was residing at the place of the applicant along with her husband, the question of commission of the alleged incident by the applicant, is an imaginary story, particularly when her husband was not accompanying her. He would urge that the applicant is entitled for protection, pursuant to proviso to section 437 of the Code of Criminal Procedure.

5. Learned Addl. Public Prosecutor, while opposing the application, would urge that there is strong evidence available against the applicant, particularly in the background of serious offence that has been alleged against her. He has taken me through statement recorded under section 164 of the Code of Criminal Procedure and other evidence.

6. It is to be noted here that the delayed first information report is claimed to have been lodged pursuant to the fact that the complainant was not having any monetary support to travel and lodge first information report. In my opinion, it is apparent from statement under section 164 of

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the Code that she has visited police stations, without narrating the dates of such visits, for lodging the first information report.

7. Apart from above, it is to be noted that the story as is narrated, and particularly the role attributed to the applicant appears to be improbable as complainant, a married student left her house without her husband and alleged to have stayed out for two days with strangers. In my opinion, the applicant is entitled for protection under proviso to section 437 of the Code of Criminal Procedure. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.109 of 2015, registered with Mantha police station, for offences punishable under sections 376, 342, 506 read with sec. 34 of the Indian Penal Code, she be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station, initially for a period of four days, between 10.00 a.m. and 12.00 p.m. and thereafter as and when called by the Investigating Officer.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj