

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.629 OF 2015

Ramesh Santaram Gawali

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.R.V. Bansode for the Applicant

Mr.J.H. Ramugade, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 6, 2015**

P.C.:

1. This application is moved for pre-arrest bail as the applicant is facing prosecution under sections 354, 506 of the Indian Penal Code. The offence was registered at C.R.No.49 of 2015 at Dahiwadi police station on 8.4.2015. The prosecutrix is 16 years and 9 months old. The applicant/accused was a teacher. In November, 2013, when she was in 9th standard, the applicant/accused outraged her modesty by hugging her. Then, he used to touch her private parts and used to threaten her that if she would tell anybody, he would kill her family members. She suffered this torture continuously out of fear. Thereafter, in the 10th standard or so, the applicant/accused repeated his acts. Out of this mental pressure, she

did not go to school for two months. At that time, the applicant/accused used to visit her home and enquire about her health. Thereafter, when she attended the school, he used to outrage her modesty and in various ways. When she appeared for the examination of her last subject of 10th standard and when she was returning home, the applicant/accused met her at a bus stand and told her that now though she was relieved, her sister was available to him. Therefore, she decided to disclose about the incidents of sexual assault at the hands of the applicant/accused.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused is 55 years old. His wife is also an assistant teacher in the same school. The allegations made against him are false. There is a delay in lodging the complaint. According to the prosecutrix, the first incident has taken place in November, 2013. However, she did not disclose about the same to anybody. He submitted that when his wife was working as a teacher in the same school, it is not possible for the applicant/accused to commit such offence especially with a student. He submitted that the Principal of the school has instigated the complainant to give such FIR. The Principal of the school was offended because of the complaint made by him and so also some explanation given by him. The Principal is having grudge against him and, therefore, he should be granted pre-arrest bail. He submitted that the applicant/accused has already suffered mentally. He submitted that in such cases, custodial

interrogation is not required. In support of his submissions, he relied on the judgment in the case of **Joginder Singh vs. State of Maharashtra**¹.

3. The learned Prosecutor has opposed the application. He relied on the statement of the prosecutrix and the Principal as also the other teachers in respect of disclosure of the incident at different times by the prosecutrix.

4. Perused the FIR so also the statements of other teachers. In the case of **Joginder Singh (supra)**, there was a single incident of touching the breast by the applicant/accused in the said case and, therefore, it was held that for such offences, the applicant/accused has already been humiliated in the society as well as the workplace and for a person of repute, the registration of offence is sufficiently a deterrent factor. However, the present case is distinguishable on facts as it is not of a single incident but a series of incidents of sexual assault of different nature. The relationship is of a teacher and student.

5. Under these circumstances, I am not inclined to grant pre-arrest bail. Hence, the application is rejected.

6. The learned Counsel for the applicant/accused prays for continuation of the interim protection for a period of four weeks so as to

1 2014 (3) Bom.C.R. Cri. 91

enable the applicant/accused to challenge this order before the hon'ble Supreme Court. Learned Prosecutor has opposed this prayer. However, in the circumstances of the case, the interim bail granted by this Court is extended for a period of two weeks from today, to enable the applicant/accused to approach the hon'ble Supreme Court.

(MRS.MRIDULA BHATKAR, J.)