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

CRIMINAL APPLICATION NO.5699 OF 2016

Manoj s/o Bhausahab Mhaske,
Age: 30 years, Occ: Service
as constable, The Central
Industrial Security Force, at
present residing at Lohagaon Pune,
Dist. Pune.

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station Officer
Karjat Police Station,
Dist. Ahmednagar.

..RESPONDENT

Mr Niteen V. Gaware, Advocate for applicant;
Mr R.V. Dasalkar, Addl. Public Prosecutor for
respondent/State;
Mr K.R. Doke, Advocate to assist Addl. Public
Prosecutor

CORAM : A.S. CHANDURKAR, J.

DATE : 9th DECEMBER, 2016

ORAL ORDER :

The applicant apprehends his arrest in
Crime No.I-231 of 2016 registered at Karjat Police
Station, Taluka Karjat, District Ahmednagar for the
offences punishable under Sections 354, 354(B),
452, 323 read with Section 34 of the Indian Penal

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Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. As per the first information report dated 12th September, 2016, the informant has reported that the applicant and two other persons had come to her house. After entering the house, the applicant had caught hold her right hand and other accused – Pankaj had caught hold her left hand. The applicant had torn her sleeve. As she shouted, both the said persons ran away outside after which her mother came there. The applicant then pushed the informant's mother and ran away. On that basis, first information came to be lodged at 23-27 hours on 12th September, 2016.

3. It is submitted by the learned Counsel for the applicant that there is rivalry between two groups in the concerned village and the applicant belongs to one of the groups. The applicant is serving as Constable in the Central Industry Security Force and as per his version, there was

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quarrel between two groups in the month of May, 2016 and on that basis false implication is possible. He submitted that the report appears to be highly improbable and even as per the version of the informant, the only allegation is with regard to tearing the sleeve of her top. It is submitted that if the applicant is arrested, his service career would be jeopardized and as all necessary material has now been collected by the prosecution, his liberty needs to be protected.

4. The application is opposed by the learned Additional Public Prosecutor relying upon the police papers. It is submitted that the statement of mother of the said girl supports the case of the prosecution. The clothes worn by the said girl as well as motor cycle in question have been seized. It is submitted that considering the gravity of the offence, liberty of the applicant does not deserve to be granted.

5. The application is opposed by the learned

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Counsel assisting the prosecution. He submitted that even if it is assumed that there are two groups in the concerned village, it is not likely that the report of such nature could be lodged. It is submitted that the statements recorded indicate the presence of the applicant and therefore, his plea of false implication cannot be accepted.

6. I have perused the first information report as well as the police papers. The incident in question is stated to have occurred at 3-00 p.m. on 12th September, 2016. The report in that regard is thereafter lodged at about 23-27 hours on the same day. The statement of mother of the said girl is recorded on the next day. From perusal of the police papers, it can be seen that the motor cycle in question has been seized by the Investigating Officer. Similarly, the clothes of the informant were seized. The statements recorded do not disclose any aspect having sexual intent on the part of the applicant. As regards necessity of the custodial interrogation, I find that incriminating

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material in the form of clothes of the girl and motor cycle have been seized. This Court had granted ad interim protection to the applicant on 17th October, 2016 with the condition to co-operate the investigation. The statement of the applicant has been recorded. The record reveals that the applicant has co-operated with the investigation. Nothing further remains to be seized.

7. Considering the fact that the applicant is in service, appropriate conditions to facilitate investigation can be imposed. In this backdrop, I do not find that the custodial interrogation of the applicant in the aforesaid crime is warranted.

8. In view of aforesaid, the following order is passed :-

: O R D E R :

(i) In the event of arrest of the applicant in Crime No. I-231 of 2016 registered with Karjat Police Station, District Ahmednagar, for offences

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punishable under Sections 354, 354B, 452, 323 read with Section 34 of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, he be released on furnishing P.R. bond of Rs. 15,000/- with one surety in the like amount.

(ii) The applicant shall attend the concerned police station on 15th December, 2016 and thereafter as per the directions of the Investigating Officer.

(iii) The applicant shall not enter the limits of Talawadi, Taluka Karjat, District Ahmednagar till the charge sheet is filed except for co-operating in the investigation.

9. The aforesaid observations are made only for the purpose of deciding present application.

10. Criminal Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)