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

CRIMINAL APPLICATION NO.6612 OF 2015

Sachin s/o Machindra Khade ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr V.D. Sapkal, Advocate holding for Mr V.P. Savant, Advocate for applicant;
Mr S.M. Ganachari, Addl. Public Prosecutor for respondent;
Mr R.G. Hange, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 25th January, 2016

ORDER :

The applicant is apprehending his arrest, in connection with C.R. No.210 of 2015, registered with Georai Police Station, Tq. Georai, Dist. Beed, for offences punishable under sections 324, 323, 143, 147, 148, 149, 504, 506, 341, 354, 354 (1) (2) (4), 354 (3) of the Indian Penal Code and under section 12 of the Protection of Children from Sexual Offences Act.

2. Mr Sapkal, learned Counsel appearing on behalf of the applicant would urge that initially after the complaint on 23rd October, 2015, i.e. on the day of the incident, the provisions of the Protection of Children from Sexual Offences Act were not invoked.

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3. According to Mr Sapkal, after registration of C.R. No.210 of 2015 against the applicant, there is another crime bearing C.R. No.213 of 2015, registered on 26th October, 2015 against the complainant and his family members for offences punishable under sections 307, 325, 144, 147, 148, 149, 323, 504, 506 and 143 of the Indian Penal Code.

4. In the light of the above background, Mr Sapkal would urge that perusal of the original first information report does not depict any allegation of offence under the provisions of the Protection of Children from Sexual Offences Act. It is only after registration of C.R. No.213 of 2015 on 26th October, 2015, the provisions of the Protection of Children from Sexual Offences Act, are invoked.

5. He would then submit that false implication of the applicant in the crime in question is apparent, as in view of subsequent crime bearing C.R. No.213 of 2015, the applicant, who is aged about 20 years, is falsely implicated. He thus prayed to release the applicant on pre-arrest bail.

6. Learned Addl. Public Prosecutor, who is assisted by learned Counsel Mr Hange, would urge that there are statements of the witnesses, including that of the complainant, the victim Vanita and her friends Sheetal and Savita, which speak about commission of crime under the Protection of Children from Sexual Offences Act. The learned Addl. Public Prosecutor then would urge that custodial interrogation of the applicant is necessary, particularly in the background of narrations in the first

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information report. Thus, he prayed to reject the application.

7. Perused the investigation papers with the assistance of the learned Addl. Public Prosecutor.

8. The statements of the victim-complainant and her friends, particularly on the aspect of the offence under the provisions of the Protection of Children from Sexual Offences Act were recorded almost after about a period of three months. The seizure is also shown to be of the same date, i.e. after a period of three months from the date of the offence.

9. One more aspect of which this Court must take a note and which is rightly pointed out by the learned Counsel appearing on behalf of the applicant that, the applicant was initially named as accused on 23rd October, 2015 when the provisions of the Protection of Children from Sexual Offences Act were not invoked. However, it is only after registration of C.R. No.213 of 2015 against the complainant, so as to give counter-blast to the applicant, the provisions of the Protection of Children from Sexual Offences Act are invoked.

10. The scanning of the investigation papers depicts that the investigation in the matter of offence under the provisions of the Protection of Children from Sexual Offences Act is carried out only on 15th January, 2016 i.e. when this Court had called upon the learned Addl. Public

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Prosecutor to produce entire investigation papers and satisfy the invocation of the provisions of the Protection of Children from Sexual Offences Act. In view thereof, false implication of the applicant cannot be ruled out.

11. In that view of the matter, in my opinion, the applicant herein deserves to be released on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.210 of 2015, registered with Georai Police Station, Tq. Georai, Dist. Beed, for offences punishable under sections 324, 323, 143, 147, 148, 149, 504, 506, 341, 354, 354 (1) (2) (4), 354 (3) of the Indian Penal Code and under section 12 of the Protection of Children from Sexual Offences Act, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety for the like amount.

The applicant shall attend the concerned police station, initially during the period from 29th January, 2016 to 1st February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

The applicant shall keep himself away from the jurisdiction of the concerned police station till filing of the charge-sheet.

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Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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