

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1023 OF 2016

Shri Rahul Pandharinath Ubale ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Aniket U. Nikam, Advocate for the Applicant.

Mr. S. S. Pednekar, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 28th JUNE, 2016

P.C. :

1 The applicant/accused in Crime No. 263 of 2016 for the offences punishable under sections 376, 312, 417, 506 of the Indian Penal Code and under section 5(L), 6 of the Protection of Children from Sexual Offences Act, 2012, registered with Lonikand Police Station, Dist. Pune, at the instance of the prosecutrix, registered initially at Chandan Nagar Police Station, Pune, by this application under section 438 of the Criminal Procedure Code, is praying for pre-arrest bail.

2 Heard the learned counsel appearing for the Applicant/accused as well as the learned APP for the State.

Learned APP argued that at the time of alleged incident the prosecutrix was minor and therefore, the applicant/ accused is not entitled for pre-arrest bail.

3 Perused the FIR. According to the informant/ prosecutrix there was love relations between her and the applicant/accused. Ultimately they developed physical intimacy and thereafter, the informant/prosecutrix was married to some body else. Perusal of the FIR goes to show that even during substance of her marriage with some other person, the informant/prosecutrix continued to indulge in sexual relations with the present applicant/accused. It is seen that she left her matrimonial house and returned to her parental house. From there also she went away and resided in rented premises for continuing the affair with the present applicant/ accused.

4 The applicant has placed on record missing complaint in respect of the informant/prosecutrix lodged by her aunt. During the inquiry of that complaint, the statement of aunt of the informant /prosecutrix came to be recorded. The statement does not point any finger of accusation against the present applicant. What is material is the statement of the prosecutrix recorded on 18.04.2016 during the course of inquiry of her missing complaint. In her statement the prosecutrix has stated that she herself left the house of her

aunt and then started residing at the house of one Patil at Chandan Nagar, Pune. In her statement, the informant/prosecutrix has categorically mentioned that nobody has sexually exploited her.

5 Taking over all view of this factual aspect, liberty of the applicant/accused gets precedence over the custodial interrogation and therefore, the following order :-

ORDER

- i. The application is allowed.
- ii. In the event of his arrest, the applicant/accused in Crime No. 263 of 2016 for the offences punishable under sections 376, 312, 417, 506 of the Indian Penal Code and under section 5(L), 6 of the Protection of Children from Sexual Offences Act, 2012, registered with Lonikand Police Station, Dist. Pune, be released on bail on executing PR bond in the sum of Rs. 10,000/- and on furnishing solvent surety in the like amount.
- iii. As a condition of this order, the applicant should attend the Lonikand Police Station, Dist. Pune on

3rd and 10th July, 2016 between 11 a.m. to 1 p.m.
and he should co-operate the investigating officer.

- iv. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The applicant should co-operate the trial court in expeditious disposal of the trial, in the event of filing of the chargesheet.

The application is disposed of accordingly.

(A. M. BADAR, J.)

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