

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1204 OF 2016

MOHAMMAD HUSSAIN ANSARI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sameer Nangre, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent – State.

P.S.I. Laxman Wadore, Sakinaka Police Station, present in court.

CORAM : P. N. DESHMUKH, J.

DATE : 22nd JULY 2016.

P.C. :

1 Heard learned counsel for the parties. Learned APP
tenders copy of FIR. It is taken on record. Perused the FIR.
Learned counsel for applicant seeks anticipatory bail on the
ground that there are no allegations attracting offences registered
against applicant. Perused the FIR registered on the basis of
report by prosecutrix dated 29th May 2016 with reference to
incidents which took place from 13th January 2015 onwards. On
the basis of said report, offences punishable under Sections
376(2)(i)(n), 366A, 313, 420 and 34 of IPC read with Section 4 of
Prevention of Children from Sexual Offences Act, 2012, (POCSO

Act), came to be registered with Sakinaka Police Station vide Crime No.311 of 2016.

2 On bare perusal of report, it reveals that prosecutrix while residing with her elder sister Nagma Ansari in the year 2013, was introduced with son of applicant aged 21 years and both of them indulged in love affair and accordingly prosecutrix used to accompany applicant's son at various places like gardens etc. in Mumbai. In the month of March 2014, applicant on pretext of marrying with prosecutrix took her to his friend's house at Sunderbaug, Sanjay Nagar, Kurla Kamani, where no family members of his friend were present and they indulged in physical relations and continued said act thereafter intermittently. It further reveals that on 28th April 2014 prosecutrix was found carrying pregnancy and accordingly informed said fact to her mother Kaiserjahan, who in turn brought this fact to the notice of mother of Noor Mohd., who requested her that they would settle the things and should not approach the police. It was also informed that marriage between applicant's son and prosecutrix can be solemnized and accordingly on 22nd May 2014 their engagement was also performed. From the report it further reveals that thereafter applicant's wife instructed prosecutrix to undergo termination of pregnancy by consuming pills and accordingly provided some pills to her and accordingly got her pregnancy terminated.

3 It further reveals that thereafter from May 2015 though prosecutrix and her family member insisted Noor Mohd. to marry the prosecutrix, they were prolonging marriage on one or other pretext and in that background, report came to be lodged belatedly on 29th May 2016 with reference to incidents which had taken place much prior to that as aforesaid.

4 Learned APP opposed the application on the ground that applicant was aware of all these facts and inspite of that, had abetted the termination of pregnancy of prosecutrix. On perusal of report, however, no involvement of applicant as aforesaid is found, though it appears that applicant's son inspite of promising to marry the prosecutrix, did not marry her, but married some other girl and thus report came to be filed. In that view of the matter, application is liable to be allowed as per order below :

- i) In the event of arrest of applicant in Crime No.311 of 2016 registered with Sakinaka Police Station, applicant be released on bail on his executing P.R.Bond in the sum of Rs.20,000/- with one surety in like amount.
- ii) Applicant shall mark attendance with Sakinaka Police Station as and when called by Investigating Officer till the filing of charge-sheet and shall not tamper with the witnesses.

(P. N. DESHMUKH, J.)