

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

ANTICIPATORY BAIL APPLICATION NO. 1553 OF 2016

Rehmat Mohd. Hussain Ansari

... Applicant

vs.

The State of Maharashtra

... Respondents

Smt. Anjali Patil, for the applicant.

Smt. Rutuja Ambekar, A.P.P. for the State/respondent.

Coram : N. W. SAMBRE, J.

Date : 23rd November, 2016

P.C. :

1. The applicant is seeking pre-arrest bail in Crime No.311 of 2016 for the offence punishable under Section 376(2)(i)(n), 366A, 313, 420, 34 of the Indian Penal Code r/w Section 4 of Protection of Children from Sexual Offences Act.

2. It is the case of prosecution that the present applicant being mother of the main accused Noor Mohd. has committed an offence punishable under above referred sections as she has brought victim Yasmin, who had physical relations with her son, treated her to be daughter-in-law and forced her to undergo abortion. It is also claimed that the said Yasmin was made to established physical relations upon false pretext of marriage by the son of the applicant to whom the present applicant supported and has also equally participated in the process of illegal abortion.

3. While trying to make out a case for grant of pre-arrest bail, the learned counsel for the applicant submits that the investigation in the matter is completed and the charge-sheet is also filed against other two accused persons. It is then claimed that the material as collected and reflected in the charge-sheet does not prima facie disclose that the applicant was actively involved in the crime in question. He invited my attention to the statement of the independent witnesses apart from the medical papers in relations to the abortion.

4. While countering the above submissions, Smt. Ambekar, the learned A.P.P. strenuously opposing the application and would urge that the charge-sheet against the applicant is not filed as the applicant has not co-operated in the investigation. According to her, the medical papers, the Doctor's statement and the statement of a neighbour Haseena speak of the prima facie involvement of the accused in the crime in question.

5. Having considered the rival submissions of the parties, it is required to be noted that in the medical papers and the statement of Dr. Saroj Bandekar, it is reflected that at the time of said abortion the parents of victim Yasmin were physically present. The MTP consent form and other papers are duly signed by the mother of the victim Yasmin. In view thereof, it is difficult to prima facie infer that the applicant has forced Yasmin to undergo the abortion.

6. Apart from above, it is required to be noted that the Yasmin appears to be in love with the son of the applicant and there appears to be live-in-relationship. There is material on

record to infer that the Yasmin has stayed with the present applicant being daughter-in-law having married with the son of the applicant. In the above referred background, the invoking of Section 376 of I.P.C. to the present applicant is also under cloud. There hardly remains any additional material to be brought on record apart from the contents of charge-sheet and the supplementary charge-sheet.

7. In the above view, in the event of arrest the applicant be released on furnishing P. R. Bond of Rs.50,000/- with one or two sureties in the like amount on the following conditions :

- (i) The applicant shall furnish her mobile phone numbers and address to the Investigating Officer.
- (ii) She shall attend the Investigating Officer on Monday and Thursday of the consecutive weeks from the next week between 10 am. to 12 noon. and thereafter as and when called for.

8. The application is allowed in the above terms.

[N. W. SAMBRE, J.]