

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.28 OF 2017

Mohammed Yakub Abdul Rasheed ...Applicant.
vs.
The State of Maharashtra ...Respondent.

Mrs. Neha Bhide for the Applicant.
Mr.R.M. Pethe, APP for the Respondent-State.
Mr.Tanaji Khade, API. Vakola Police Station present.

CORAM :A.S.GADKARI, J.
DATE : 10th April, 2017

P.C.

1) The applicant is apprehending arrest in CR No.164/2016 dated 2.8.2016 registered with Vakola Police Station, Mumbai under Section 354, 506 read with 34 of the Indian Penal Code.

2) The first information report is lodged by Smt. Shahin Fatima Zakiruddin Khan-the teacher employed in the Municipal Corporation School situated at Kalina. It is the allegation against the applicant that he being the teacher in the said school used to take undue advantage of his position and indulged into the acts as contemplated under Section 4 read with 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). As the victims involved in the present crime are minor girls with a view to protect the identify of the victim girls and in consonance with the provisions of Section 228A of the

Indian Penal Code the name of the victim girls and the detailed narration of facts mentioned in the first information report is hereby avoided. Suffice it to mention that on the basis of the grievance and or complaint made by the victim girls to their respective parents, the complainant who is a lady teacher working in the same school has lodged the present FIR.

3) The learned counsel for the applicant submitted that the statements of three victim girls are recorded by the Metropolitan Magistrate under Section 164 of the Cr.P.C. , which are annexed at Page 50, 52 and 54 of the present application and the said victim girls have exonerated the applicant from the alleged offence.

4) I have perused the record of investigation of the present crime. There are three more victim girls whose statements under Section 164 of the Code of Criminal Procedure have been recorded by the Metropolitan Magistrate, Mumbai on 8.11.2016. One of the victim girl has categorically attributed the act which prima facie squarely constitutes the offence under Section 8 and 12 of the POCSO Act along with other provisions of the Indian Penal Code. The applicant being a teacher employed in a public school run by the Municipal Corporation cannot be expected to indulge in such type of heinous activities. The allegations made by the victim girls which are recorded by the Metropolitan Magistrate in a statement under Section 164 of the Cr.P.C. are heinous in nature. In view of the

above, this Court is of the view that the applicant does not deserve to be granted pre-arrest bail.

5) Application is accordingly rejected.

(A.S.GADKARI, J.)