

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1771 OF 2017

SHANKAR TUKARAM JADHAV)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Moinuddin Khan, Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 9th OCTOBER 2017

P.C. :

1 The applicant / accused in Crime No.184 of 2017 registered with Police Station V.B.Marg Police Station for offences punishable under Sections 376(2)(f)(j)(n) of the Indian Penal Code (IPC) as well as under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, (POCSO Act), is seeking pre-arrest bail. The learned advocate appearing for the applicant / accused by drawing my attention to the complaint dated 4th August 2017 submitted by the present applicant /

accused to various authorities of the State vehemently argued that alleged victim of the crime as well as her relatives had opposed his marriage which was solemnised in December 2016 and the applicant / accused was illegally detained by police on 1st August 2017 at Kurla Police Station for questioning him. In submission of the learned advocate for the applicant / accused, custody of the applicant / accused is only required for DNA test. Infact, for conducting DNA test, the custody of the applicant / accused is not required. The police are attempting to arrest him even before conducting DNA test and as such, he is entitled for pre-arrest bail.

2 The learned APP opposed the application by relying on statement of the victim of the crime in question and submitted that the FIR itself shows that the victim of the crime in question is a minor female child. She alleged commission of offence by the applicant / accused and she is now pregnant.

3 I have carefully considered the rival submissions and also perused the case diary of the crime in question. School

Leaving Certificate of the alleged victim of crime in question shows that her date of birth is 17th September 2000 and as such in the month of commission of alleged crime i.e. in December 2016, she was a child, as defined by POCSO Act. Her age was below 18 years at the time of commission of the alleged offence.

4 Statement of the alleged victim female child shows that after death of her parents, she started residing with her uncle and aunt. The applicant / accused being her relative was also residing with the said uncle and aunt of the minor female victim. In December 2016, he allured her with the promise of marriage and committed sexual intercourse with her, making her pregnant. Papers of medical treatment of the minor female victim shows that she is pregnant.

5 The minor female victim had not attained the consenting age. The crime in question is that of penetrative sexual assault on a child. No case for anticipatory bail is made out.

6 The application is rejected.

(A. M. BADAR, J.)