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

ANTICIPATORY BAIL APPLICATION NO. 1226 OF 2018

Sameer Babasaheb Mujawar

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Kuldeep Nikam for applicant.

Ms. J.S. Lohokare, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 3rd December 2018.

P.C.:

1] The applicant is apprehending arrest in in CR No. 200 of 2018 dated 1.5.2018 registered with Sahupuri Police Station, District- Satara under Section 376(2)(f), 366, 354C, 417, 506, 120B, 109 of the Indian Penal Code and sections 3(a), 4, 5(f)(6), 7(f), 8 of of the Protection of Children From Sexual Offences Act (POCSO Act).

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record annexed to the application.

3] The prosecutrix in the present case was minor on the first date of commission of sexual assault by the applicant and therefore with a view to protect her identity and in consonance with the provisions of Section

228(A) of the Indian Penal Code and under Section 33(7) of the Protection of Children From Sexual Offences Act (POCSO Act), the detailed narration of the facts mentioned in the first information report and other relevant statements of witnesses disclosing her identity are hereby avoided.

4] It is the prosecution case that, the applicant was conducting a coaching class at Satara. The prosecutrix was attending the said class since she was in 8th standard. It is alleged that, in the year 2015 firstly the applicant committed sexual assault on the prosecutrix. It is alleged that, subsequently the applicant extended promise to marry with the prosecutrix and further exploited her. On 28.4.2018, the applicant induced the prosecutrix to leave her parents' house and accompany him. He thereafter allegedly performed marriage with the prosecutrix. It is alleged that, the applicant has pressurized the prosecutrix to give favourable statement in his favour before the police, after the said fact of marriage came to the knowledge of her parents. In the premise the first information report is lodged.

5] Mr. Nikam the learned counsel for the applicant submitted that, as a matter of fact the applicant has performed marriage with the prosecutrix on 28.4.2018 after the prosecutrix became major. He submitted

that, on an earlier occasion i.e. on 10.11.2017 under the pressure exerted by the parents of prosecutrix, she had registered a crime bearing No.908 of 2017 with Satara Police Station under section 363 of the Indian Penal Code and the said crime has been investigated by the police and have submitted chargesheet. That in the said crime, the applicant was arrested by the police and has been released on regular bail. He submitted that, no allegation of sexual assault was made in the said crime, though it was necessary for the prosecutrix to reveal the said fact to the police and therefore the present crime is registered with due deliberation by pressurizing the prosecutrix by her parents. He submitted that, in view thereof the custodial interrogation of the applicant is not necessary and he may be protected by pre-arrest bail.

6] A minute perusal of the first information report would indicate that, the applicant being a teacher of the prosecutrix has indulged into an act which would fall within the purview of Section 376 (2)(f) of the Indian Penal Code. The allegations against the applicant is of sexual assault on the prosecutrix in the year 2015 which further would certainly fall within the purview of sections 3,4 and 5 of POCSO Act. As far as the lodgment of earlier crime is concerned, the record indicates that the same was registered by the mother of the prosecutrix after prosecutrix was not traced

out on 29.10.2017 after 12.30 p.m and when the prosecutrix was kept in remand home by the Government Authority. That, there is every probability that the prosecutrix might not have disclosed the details about sexual assault committed by the applicant to her parents on the date of lodgment of earlier crime. However in the present crime a specific allegation is made by the prosecutrix against the applicant. It is the further allegation against the applicant that, he forced the prosecutrix to execute certain documents which he had brought, to show that he has performed lawful marriage. The prosecutrix in her present report has made categorical statement that the applicant has executed false documents for the same.

7] In view of the above, it is necessary for the police to unearth the entire truth behind the crime and the same will not possible without there being thorough interrogation of the applicant.

8] After taking into consideration the serious allegations against the applicant and the gravity of offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

9] At this stage, the learned counsel for the applicant submitted that, the applicant intends to challenge the present Order before the

Honorable Supreme Court and therefore prayed that, interim relief granted by an Order dated 25th June 2018 may be continued for a period of four weeks from today.

In view thereof, interim relief granted by Order dated 25th June 2018 shall remain in force for a period of three weeks from today.

(A.S.GADKARI, J.)