IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 1958 of 2018.

Hanumant Kashinath Gunjal and Ors ..Applicants.
Vs
State of Maharashtra ..Respondent.

Mr. Ashish S. Sawant, Advocate for the Applicants.
Mr. S.R. Agarkar, APP for the State.
Mr. S.N. Jadhav, P.S.I., Vairag P.S. present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATE : 16th OCTOBER, 2018

P.C:-

1) This is an application under Section 438 of Criminal Procedure Code, filed by the aforesaid applicants, apprehending their arrest in C.R.No. 80 of 2018 registered at Vairag Police Station, District Solapur, for offences punishable under sections 376 (2) (n), 363, 366A, 323, 506 read with section 34 of the Indian Penal Code and under Section 4, 8, 12, 17 of the Protection of Children from Sexual Offences Act, 2012.

2) Heard Mr. Sawant, learned counsel for the applicants and Mr Agarkar, learned APP for the State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3) The aforesaid crime was registered pursuant to the first information report lodged by one Dharma Anna Jadhav, who is father of the prosecutrix. The first information report prima facie states that the prosecutrix was about 17 years of age. It is alleged that on 26/2/2018 the prosecutrix as well as the main accused Gokul Kashinath Gunjal were not found in their respective homes. The father of the prosecutrix suspected that the co-accused Gokul had kidnapped the prosecutrix under a false promise of marriage. He therefore lodged the first information report against said Gokul. Subsequently, the main accused and the prosecutrix were traced. The statement of the prosecutrix was recorded. She claims that co-accused had taken her to Vairag and thereafter at Ahmednagar and had sexual intercourse with her.

4) The allegation against the present applicant No.1 is that he had paid Rs.3000/- to his brother, co-accused Gokul. The applicant had threatened the prosecutrix not to inform her parents and brother about their whereabouts. It is alleged that co-accused Gokul had taken the prosecutrix to the house of the applicant No.2 and that the applicant No.2 had told the prosecutrix that she would get her married to co-accused Gokul.

It is further alleged that applicant No.3 had taken the prosecutrix and the co-accused Gokul to Dhok-Sangvi and had arranged a room on rent and had introduced the prosecutrix to the villagers as wife of co-accused Gokul. The nature of the allegations do not justify custodial interrogation.

5) The record reveals that investigation is already concluded and charge-sheet is filed. The learned APP, on instructions, concedes that presence of the applicant is not required for the purpose of interrogation. The applicants are permanent residents of District Ahmednagar and there is no possibility of their absconding. They have no criminal antecedents.

6) Considering the above facts, so also the nature of allegations levelled against the applicants, in my considered view, this would be a fit case for grant of pre-arrest bail on the following terms and conditions :-

(i) Application is allowed.

(ii) In the event of arrest of the applicants in Crime No. 80 of 2018 registered with Vairag Police Station, District Solapur, they shall be enlarged on bail on their furnishing bail bonds of Rs. 25,000/-

each with one or two sureties each in the like amount.

(iii) The applicants shall furnish their permanent and temporary addresses, if any, and their contact details to the Investigation Officer.

(iv) The applicants shall not change their residential addresses, without prior intimation to the Investigation Officer.

(v) The applicants shall not interfere with the complainant/first informant, other witnesses and shall not tamper with the evidence in any manner.

7) Application stands disposed of in the aforesaid terms.

(SMT. ANUJA PRABHUDESSAI, J.)