

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

ANTICIPATORY BAIL APPLICATION NO. 1776 OF 2017

Atharva Rahul Raje. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Abhijit Desai a/w. Mr. Vrushali Maindad i/b. Desai Legal,
advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. K.B. Jadhav, PSI, Sahakarnagar Police Station, Pune.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 17, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP.

2 This is an application under section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
C.R. No. 240 of 2017 registered at Sahakar Nagar Police Station, for

offence punishable under section 376-D, 506 read with section 34 of the Indian Penal Code and under section 4, 5(g), 6, 11(5) and 12 of the Protection of Children from Sexual Offences Act, 2012. The applicant was granted interim relief vide order dated 9//10/2017. The applicant has cooperated with the investigating agency.

3 It is the case of the prosecution that on 6/8/2017 Ms. X has lodged a report at the police station alleging therein that the applicant herein happens to be her classmate from standard 1st to standard 10th. She had met the cousin of the applicant namely Akash Wagh on the face book. They got acquainted with each other. According to the complainant, Nikhil Godse Patil also used to like the complainant. He had informed the complainant that Akash is double dating with her. He has also attempted to email the complainant on several occasions. According to the complainant, on 5/6/2017 Akash and Nikhil had solicited sexual favours from her. That on that day, the present applicant was also present alongwith Akash.

4 The applicant has specifically contended that he is not concerned with the incident dated 5/6/2016. He was at Narsobachi Wadi on that day. He had then proceeded to Kolhapur. He has placed on record the photographs, which were taken alongwith his by family members on 4/6/2017 and 5/6/2017.

5 On the last date of hearing, this Court had asked the Investigating Officer to record statement of the persons who are seen in the photographs alongwith the present applicant, seize the camera and verify as to whether the applicant was in Kolhapur. The learned APP upon instructions from the investigating officer who is present in the court has fairly submitted that the records would show that the applicant was not at Pune on that day and he was at Kolhapur.

6 Upon perusal of the papers of investigation and considering the submissions advanced across the bar, this Court is of the opinion that the interim relief granted vide order dated 9/10/2017 deserves to be confirmed.

7 However, it is made clear that the observations are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and the same shall not be taken into consideration while deciding the application for quashing of FIR or discharge application or at the time of trial.

8 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in C.R. No. 240 of 2017 registered at Sahakar Nagar Police Station, Pune, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more sureties in the like amount.

(iii) The applicant shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)