

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2603 OF 2018

Santosh Ramsing Dhaniwale

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Satyavrat Joshi I/by J.D. Mane for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

Mr. Rushikesh Kale for the Original Complainant.

CORAM : A. S. GADKARI, J.

DATE : 18th DECEMBER, 2018.

P.C.:-

The Applicant is apprehending arrest in CR No. 710 of 2018, registered with Sadar Bazar Police Station, Solapur under Sections 354, 452, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 12 of the The Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 Heard the learned counsel for the Applicant, the learned counsel for the first informant and the learned APP. Perused the record of investigation.

3 The learned counsel appearing for the Applicant submitted that, the co-accused namely Yogesh Dhaniwale, who has been

attributed with same and/or similar role, has been released on pre-arrest bail by the learned Additional Sessions Judge, Solapur by its order dated 4th December 2018.

4 The learned APP submitted that, the allegation against the Applicant is that, he hit with a fist blow on the private part of the first informant/prosecutrix and therefore, the role alleged to have been played by the Applicant differs from the co-accused Yogesh Dhaniwale.

5 The medical record of the prosecutrix indicates that, she was not willing to examine herself from a Gynecologist to substantiate her contention of suffering a blunt trauma to her private part.

The record indicates that, the father of the Applicant has lodged C.R. No. 709 of 2018 under Sections 307, 323, and 394 r/w Section 34 of the Indian Penal Code against the family members of the prosecutrix which is prior in point of time.

The first information report itself mentions that, there is a long standing dispute between the family members of the prosecutrix on one hand and the family members of the Applicant on the other hand over their ancestral property.

The record further reveals that, the prosecutrix is a cousin sister of the Applicant. It, *prima facie* appears that, the version narrated by the prosecutrix is little exaggerated qua the assault by the Applicant is concerned, as the prosecutrix has refrained herself from medically examined at the hands of the Gynecologist.

6 In view of the above, the Applicant is entitled to be protected by pre-arrest bail.

Hence, the following order-

- a) In the event of arrest in CR No. 710 of 2018, registered with Sadar Bazar Police Station, Solapur the Applicant shall be released on bail on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)