

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1605 OF 2019

Vishal Dinkar Jadhav	]	... Applicant
Versus		
The State of Maharashtra	]	... Respondent

Mr. Satyavrat Joshi a/w Mr. Tejas Kamble i/b Ms. Sneha Bhange,
 Advocate for the Applicant.
 Ms. S.S. Kaushik, APP for the State/Respondent.
 ASI Y.S. Khaire, attached to Trambakeshwar Police Station, Nashik
 present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 16th AUGUST, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.91/2018 registered with Trambakeshwar Police Station, Nashik u/sec. 364, 366 A, 376 (2) r/w 34 of I.P.C. and u/sec. 4, 6 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The FIR was lodged on 06/09/2018 by father of the prosecutrix. He has stated that, the victim - his daughter was married three years prior to the incident. He has mentioned in his FIR that, she was 20 years of age. She had left the house on 01/09/2018 on the pretext of

going to a shop. Thereafter, she had not returned. The first informant then lodged the complaint in respect of her missing from the house. He took search with one of his relatives. He came to know that, the present applicant had taken away the victim. The informant met the applicant and asked him her whereabouts. The applicant told the informant that, she was left at the place of one Yogesh Salve and that he was unable to tell where she was. On this basis the FIR was initially lodged u/sec. 363 r/w 34 of I.P.C. Consequently, the victim was traced and the co-accused Yogesh Salve was arrested. The investigation was carried out and the charge-sheet is filed against Yogesh Salve.

3. The investigation papers contain statement of the victim recorded by the police on 07/09/2018 and by the Judicial Magistrate u/sec. 164 of Cr. P.C. on 27/09/2018.

4. Heard Mr. Satyavrat Joshi, Ld. Counsel for the Applicant and Ms. S.S. Kaushik, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that, the FIR itself mentions that, the prosecutrix was 20 years of age and she had

willingly accompanied the present applicant. Therefore, no offence is made out against him. He submitted that, the charge-sheet filed against co-accused shows that, the bonafide certificate of the victim mentions her age just below 17 years at the time of incident. That certificate was not reliable. The certificate was issued by the school where the date of birth is mentioned as 26/11/2001. He submitted that, the story narrated by the prosecutrix in her statement before the police as well as before the Ld. Magistrate is improbable. He submitted that, it was not believable that, she would act on false promise given by two persons. Therefore, he submitted that, the custodial interrogation of the applicant was not necessary.

6. As against these submissions, Ld. APP relied on the statements given by the victim before the Ld. Magistrate and police. She also relied on the bonafide certificate issued by the school showing that, the prosecutrix was below 17 years of age at the time of incident.

7. I have considered these submissions. At this stage, it is not possible to observe that, the bonafide certificate issued by the school of the victim is not reliable. There is a strong possibility that, she was below 17 years of age at the time of incident. Therefore, the offence

is made out. However, even assuming that, she was 20 years of age, the statements of the victim show that, she was used by the present applicant and thereafter by Yogesh. False promise of marriage was made to her. The prosecutrix has stated in her statement that, she was earlier married in the year 2016. She was not getting along well with her husband. She developed relations with the present applicant. The applicant was promising to marry her. On 01/09/2018, the applicant asked her to meet him at bus stop. Thereafter, he took the victim to Village Kone, Trambakeshwar. He took her to the house of co-accused. He promised that, he would marry the victim and thereafter develop physical relations with her. He left from there. He did not return. On 02/09/2018, she went to Gangapur. The victim stayed over-night there. She called the applicant. Then, the applicant again called her to Yogesh's farm. On 03/09/2018, the applicant met her in Yogesh's farm. At that time, the co-accused Yogesh was also present. The applicant introduced the victim to co-accused Yogesh. At the instance of the applicant, the victim gave her ornaments to Yogesh to take care of expenses. Thereafter, the applicant again left. From 03/09/2018 the applicant had not contacted the victim. In the meantime, co-accused Yogesh took her to a lodge at Vani and then

again back to his farm. In the meantime, he developed physical relations with the victim. On 07/09/2018, he repeated his act. In the afternoon, police came and rescued her. She had narrated similar incident in her statement recorded u/sec. 164 of Cr. P.C. From her statement it appears that, she was having relationship with the applicant. However, the applicant's conduct shows that, he had taken wrong advantage of her vulnerable situation. At the first instance, he developed physical relations with her on the pretext of marriage and thereafter had given her in the custody of his friend co-accused Yogesh who repeated the same act. The victim's ornaments were taken away. Thus, conduct of the applicant does indicate that, his intentions were not honourable and the offence was committed under false promise of marriage. Considering seriousness of the offence, custodial interrogation of the applicant is necessary. No case for anticipatory bail is made out. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)