

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1440 OF 2019

Rohit Dnyaneshwar Wagh] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Aniket Nikam i/b Mr. Vivek Arote, Advocate for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
PSI R.S. Narote attached to Satpur Police Station, Nashik present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 3rd SEPTEMBER, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.206/2019 registered with Satpur Police Station, Nashik u/sec.376 of I.P.C. and u/sec. 4 of The Protection of Children from Sexual Offences Act, 2012 (POCSO).

2. The FIR is lodged by the victim herself. She has stated that, her date of birth is 31/12/2002. She has stated that, on 06/05/2019, she had quarreled with her mother, because her mother was suspecting that, she had taken Rs.2,000/- without telling her mother. The

mother inspected her mobile phone. The handset belonged to a friend of the victim. The victim got angry with all this and left her house on 07/05/2019 around noon. She went to C.S.T. In the meantime, her mother lodged complaint about her missing. Her grandfather was aware of such complaint having been lodged. Therefore, as soon as she reached Nashik to her grandfather's place, the grandfather immediately took her back to Mumbai. Because of the complaint lodged by her mother, the victim was taken for medical examination. During her medical examination, the Medical Officer made inquiry with her. At that time, she had informed the doctor that, she was having love affair with the present applicant and on 15/09/2018 on the occasion of his birthday, she had met him. At that time, they had their sexual intercourse. It is mentioned in FIR that, initially she had resisted him, but he continued with his act. On this basis, the FIR is lodged.

3. Heard Mr. Aniket Nikam, Ld. Counsel for the Applicant and Mr.Prashant Jadhav, Ld. APP for the State/Respondent.

4. Mr. Nikam submitted that, the FIR itself shows that, the victim and the applicant were having love affair. The applicant is a student

and studying Diploma in Engineering. Therefore, his future will be ruined if he is arrested.

5. Ld. APP opposed these submissions and added that, the offence is serious and under POCSO Act, there is presumption against the applicant. He also produced the papers of investigation.

6. I have considered these submissions. I have perused papers of investigation. During investigation, the victim's statement u/sec. 164 of Cr. P.C. is recorded by the Ld. Magistrate. In the statement, she has spoken about her leaving the house without informing her mother. But she has not stated a word about the incident involving the present applicant. Thus, it is more than clear that, the victim herself does not have any grievance against the present applicant. Though, technically the ingredients of the alleged offence are satisfied, I am only deciding question of grant of anticipatory bail against the present applicant. Considering the fact that, there was love affair, the applicant is a student and the victim in her statement recorded u/sec. 164 of Cr. P.C. has not made any grievance against the present applicant, I am inclined to grant anticipatory bail to the present applicant. His custodial interrogation is not necessary. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.206/2019 registered with Satpur Police Station, Nashik, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)