

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

ANTICIPATORY BAIL APPLICATION NO. 1743 OF 2019

Shubham Uttam Bhosale

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Tejas Hilage, Advocate for the Applicant.
- Smt. A. A. Takalkar, APP for the State.
- Mr. N. S. Lakde, API, Yawat Police Station, Pune Rural.

CORAM : SARANG V. KOTWAL, J.

DATE : 8th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 500/19 registered at Yawat Police Station. Initially the offence was registered under Section 363 of the IPC. Thereafter, sections 376 and 366 of the IPC as well as Sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 was added.

2. The FIR is lodged by father of the victim on 5th June 2019 in respect of missing of his daughter from his house in the night between 3rd June 2019 to 4th June 2019. He has stated in his FIR

that the victim was 17 years and 1 month of age. In the night at around 10.00 p.m. all of the family members slept after taking dinner. On the next day morning his daughter was not seen. Thereafter, he lodged this FIR.

3. It appears that on 11th June 2019, the police and the first informant went to the house of the present applicant, from where the victim was taken by the informant to his house and thereafter other sections were added. The applicant is apprehending his arrest in connection with these offences.

4. Heard, Mr. Hilage, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

5. Learned counsel for the applicant submitted that the applicant, was 21 years of age. He and the victim were in love. She eloped with him voluntarily. She was not forced.

6. Learned APP submitted that, during the course of investigation her statements were recorded under Sections 161 and 164 of the Cr. P.C. In her statement recorded under Section 161 of the Cr. P. C. on 11th June 2019, she has admitted that she was in a love relationship with the applicant and they had planned

to elope together. On 4th June 2019, she herself had gone to the place where the applicant was already waiting for her. The victim was then taken to his house and thereafter to Karjat and then again back to his house. It is her case that during all this stay together, they had physical relationship.

7. As against this statement, in her statement recorded on 13th June 2019 under Section 164 of the Cr. P.C. she had narrated a different story. She has mentioned that the applicant had taken her to a garment shop and when she was trying different dresses, he captured her on video. It is her case that based on such video clipping; under threats, he had made her to do all these things mentioned in her earlier statement.

8. I have considered these submissions. In the statement recorded at the earlier point of time under Section 161 of the Cr. P.C, the victim has exonerated the present applicant. She has clearly mentioned that, there was a love relationship. The first statement is not given under some coercion or pressure. The subsequent statement under Section 164 of the Cr. P. C. was recorded when the victim was already in the informant's house for

over a period of two days. Therefore, there is considerable force in the submissions of Mr. Hilage that the subsequent statement could have been given by her under pressure and after tutoring. At this stage, there is sufficient doubt created by her first statement which shows that they had a love relationship. Though technically the offences are made out, considering young age of the applicant and also considering that there was consensual relationship, no purpose will be served by arresting the present applicant and subjecting him to custodial interrogation. The applicant will have to cooperate with the investigation. In this view of the matter, applicant deserves the protection of anticipatory bail. Hence, the following order:-

ORDER

1. In the event of his arrest in connection with C.R.No. 500/19 registered at Yawat Police Station, 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) each one or two sureties in the like amount.
2. The applicant shall attend the concerned police station as

and when called.

3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)