

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.755 OF 2020**

VIKAS S/O. KAILAS GAIKWAD  
VERSUS  
THE STATE OF MAHARASHTRA.

...  
Ms.Archana Bhange, Advocate holding for  
Mr.V.S.Panpatte, Advocate for the applicant.  
Mr.N.T.Bhagat, APP for the respondent-State.

...  
**CORAM : V.L.ACHLIYA,J.**  
**DATE : 09.10.2020**

**P.C.**

1] The applicant apprehending arrest in connection with Crime No.68 of 2019 registered with Ambhora Police Station, District Beed, for the offences punishable u/s.376 [2] (I), 366-A, 363, 506, 34 of the IPC and Sections 4, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2] Heard learned counsel for the applicant and learned APP representing the respondent-State. Perused the first information report and the order passed by the learned Additional Sessions Judge rejecting the application seeking pre-arrest bail. Also perused the papers of investigation.

3] In brief, it is the contention of the learned counsel for the applicant that the applicant is innocent and falsely implicated in the case at the instance of the family members of the informant as applicant refused to marry with the informant. It is further submitted that as per the facts stated in the first information report, the incident alleged to be occurred on 24.05.2019. The complaint was filed on 28.05.2019 i.e. after three [3] days of incident. No explanation has been put-forth as to delay in lodging the complaint. It is further submitted that the applicant had met with an accident in the month of March, 2019 and sustained fracture injury to his hand. Due to fracture injury he was unable to drive the motorcycle. It is submitted that the story of the prosecution is highly improbable. The place where the informant alleged to have kept after abduction and kidnapping being crowded locality and large number of workers employed for construction of road were residing in said locality, it is impossible to confine and to commit rape as alleged in complaint. It is submitted that the applicant is ready to co-operate in investigation. So also he is ready to abide

any conditions that may be imposed in the event he is granted pre-arrest bail.

4] On the other hand, learned APP opposed the application with contention that there is strong *prima facie* case to connect the applicant with the offences registered against him. By referring the first information report lodged by the informant-the victim girl aged 14 years, learned APP submits that the facts narrated in the complaint clearly make out case of abduction, kidnapping and raped of a minor girl on the part of applicant inviting registration of offence u/s. 376 [2] I, 366-A, 363, 506, 34 of the IPC and Sections 4, 8 and 17 of the Protection of Children from Sexual Offences Act, 2012 against applicant. It is submitted that the statement of the prosecution also recorded u/s. 164 of the Criminal Procedure Code wherein she has reiterated the incident which has taken place with her. So far as delay in lodging the complaint, the informant herself stated in the complaint that due to threat given by the applicant, she could not immediately lodge the complaint. By referring the report of medical examination, learned APP submits that report of medical

examination supports version of the victim girl that she was subjected for forceable sexual intercourse. It is submitted that since registration of offence, the applicant is absconding. In order to conduct proper investigation, custodial interrogation of the applicant is necessary.

5] I have carefully considered the submissions advanced in the light of overall facts of the case, nature of accusations made against the applicant. In my view the facts stated in the first information report lodged by the informant - victim is more than sufficient to make out *prima facie* case against the applicant. In the complaint filed, the informant has categorically stated as to act of accused as to her abduction, kidnapping and rape committed on her. At the time of incident, the informant was aged about 14 years. During the course of investigation, the Investigating Officer has obtained extract of the school admission register. As per the school admission register, victim shown to be borne on 20.07.2005. In that view, the victim girl was in the age group of 14-15 at the time of commission of offence. The report of medical

examination supports version of the victim girl. There are statements of the witnesses corroborates the version of the incident given by the informant. In view of nature of accusations and seriousness of the offences, the applicant do not deserve protection u/s.438 of the Criminal Procedure Code. The applicant is absconding since commission of offence. The grant of anticipatory bail to the applicant would hamper on-going investigation. Custodial interrogation of the applicant is necessary for conduct of proper investigation. Hence the application is rejected.

6] It is clarified that the observations made above are *prima facie* observations made for the limited purpose of deciding the present application. None of the observations made be treated as expression of view of this Court as to the merits of the case of the prosecution against the applicant.

**[ V.L.ACHLIYA ]**  
**JUDGE**