

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 967 of 2020

Shishir s/o Balkrushn Pataaskar,
Age : 43 years, Occu. Service,
R/o 32, Krushngopal Housing,
Ambedkar Ves, Bhingar Nagar,
District Ahmednagar

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station Officer,
Newasa Police Station,
District Ahmednagar

RESPONDENT

Mr. Niteen V. Gaware, Advocate for the applicant
Mr. P.G. Borade, A.P.P. for the respondent/State
Mr. C.K. Shinde, Advocate to assist the A.P.P.

CORAM : MANGESH S. PATIL, J.

DATE : 05.11.2020

PER COURT :

Heard both the sides.

2. This is an application under Section 438 of the Code of Criminal Procedure wherein the applicant is seeking bail in connection with Crime No.783/2020 registered with Newasa Police Station, Tq. Newasa, District Ahmednagar for the offences punishable under Sections 376(2)(n), 376(2)(c) and 376 of the Indian Penal Code.

3. The prosecutrix, stated to be aged 40 years, has lodged the FIR alleging that under the pretext of engaging her son in the employment in the Cantonment Board, where the applicant has been serving, he committed sexual intercourse with her and continued to sexually exploit her since July, 2017. The FIR is lodged on 20.09.2020. The applicant is now apprehending his arrest and is seeking anticipatory bail.

4. The learned Advocate for the applicant submits that the applicant is being falsely implicated. In fact, the prosecutrix is of questionable character. There are criminal antecedents. She is in fact aged quite more than what she now pretends to be. She has three sons who are all married. The learned Advocate further submits that in fact, one third person, who is interested in securing a contract with the Cantonment Board, is acting behind the scene and has instigated the prosecutrix to implicate the applicant. He would submit that accepting the allegations in the FIR at their face value, if really the applicant had exploited her for last three years, there was no reason why the FIR has been lodged belatedly. His custodial interrogation is not necessary. He is ready to cooperate the Investigating Officer. He is in the employment of the Cantonment Board and not likely to jump the bail.

5. The learned A.P.P., assisted by the learned Advocate for the prosecutrix, opposes the application. He submits that the offence is serious.

At this juncture, no inference can be drawn much less belying the prosecutrix. No woman having three children would falsely implicate a person with these kinds of allegations. They would submit that her character and criminal antecedents are irrelevant while considering the allegations in the FIR. She would at appropriate time and if she gets opportunity, can explain the antecedents as well, but that fact being irrelevant may not be considered.

6. Ex facie, indeed the allegations appear to be serious. But then if one carefully looks into the allegations, the prosecutrix is alleging that she has been sexually exploited over a period of three years. She is a woman aged more than 40 years, stated to be having married sons. Considering these aspects, without intending to give any clean chit to the applicant, the facts and circumstances discussed hereinabove are sufficient to grant anticipatory bail to the applicant.

7. The application is allowed. In the event of arrest of the applicant in connection with Crime No.783/2020 registered with Newasa Police Station, Tq. Newasa, District Ahmednagar for the offences punishable under Sections 376(2)(n), 376(2)(c) and 376 of the Indian Penal Code , he shall be released on bail on his executing personal recognizance for an amount of Rs.25,000/- (Rupees Twenty Five Thousand) and furnishing a solvent surety in the like amount on following conditions :

- a] He shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.

b] He shall not tamper the evidence or influence the witnesses.

[MANGESH S. PATIL]
JUDGE

npj/ABA967-2020