

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

ANT. BAIL APPLICATION NO.26 OF 2020

Vikas Prakashchand Jain ... Applicant
Vs
The State of Maharashtra ... Respondents
...

Mr. Kandarkar Abhijeet Jayant for the Applicant.
Mr. Y.M.Nakhwa , APP for the Respondent-State.
PI Ajay Kamble attached to Bhiwandi Town P.Stn.
Present.

CORAM : SANDEEP K. SHINDE J.
DATE : 7TH JANUARY, 2020.

P.C. :

Heard.

2 *Applicant is apprehending arrest in Crime No.591 of 2019 for the offence punishable under Section 376 of the Indian Penal Code, 1860. Applicant had filed an application seeking pre-arrest bail in the Sessions Court at Thane. Application was heard on 20th, 24th December and 3rd January, 2020. It is informed that the learned Sessions Judge had posted the said application for orders on 10th*

January, 2020.

3 *In view of the facts of the case, the learned APP opposed the application and contended that since the matter is sub-judice in the Trial Court, this Court may not interfere.*

4 *As a matter of propriety when the proceedings are sub-judice in the Court of competent jurisdiction, higher Court should not exercise the concurrent jurisdiction vested in it. However, in the case in hand, alleged incident had taken place in March, 2017 but reported in December, 2019. Complainant/Victim is 35 years old lady, well educated from Mithibai College, however, complaint does not suggest any reason as to why victim did not approach police soon after the incident of sexual assault.*

5 *In view of this fact but without addressing merits of the matter, respondent-State shall not arrest the applicant till 10th January, 2020.*

6 *It is clarified that the learned Sessions Judge shall decide the bail application of the applicant on its merits*

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without being influenced by the order passed by this Court.

7 *Application is disposed of.*

(SANDEEP K. SHINDE, J.)