

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2475 OF 2019**

Rishipal Singh .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Ganesh Bhujbal for the Applicant.

Ms. M.M. Deshmukh, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 08TH DECEMBER, 2020.

P.C:-

1. The Applicant is apprehending his arrest in C.R. No.293 of 2018 registered with Dattawadi Police Station, Pune. Offences punishable under Sections 376 and 506 of the IPC have been invoked against him.

2. The prosecutrix is aged 21 years. She has filed a complaint on 19/07/2018 alleging that she is an estranged woman, whose husband had left her immediately after her marriage and since then she was residing along with her parents at the address given in the complaint. Her parental family is running a small grocery shop. It is alleged by her that one boy used to come to their shop for delivery of milk and she got acquainted with him. He expressed his love and affection towards her and on one day, in December, 2017, after expressing his

love towards her and on a promise that he would marry her, he committed forcible sexual intercourse with her. The act of physical indulgence was repeated. One day, when a person residing in the nearby flat witnessed the incident and when attempted to question the said boy, he disappeared from the said place and never came back.

3. The incident of physical intimacy, however, resulted into the said boy impregnating the Complainant. She was compelled to disclose her pregnancy to her mother and, when the identity of the person who was responsible for her pregnancy was sought, she refused to divulge. The Complainant was then admitted in an NGO in Morshi, Pune and a report came to be lodged on 19/12/2017. The Complainant delivered a child on 20/08/2018.

4. During the course of investigation, the statement of the mother of the Complainant as well as the statement of her father came to be recorded. The statement of the father led to a person named Vikramsingh Chudawat, who was a milk supplier and, his statement came to be recorded on 02/08/2018. He disclosed that in the area near Shivaji Stadium, Pune two persons viz. Rishipal Singh Chudawat and Ravi Singh Jethawat were engaged by him to supply milk. Rishipal is the present Applicant and Vikramsingh disclosed that he is his cousin brother and since last one year, he was indulging in supply of milk at the instance of Vikramsingh and the area entrusted to him for supply of milk is near Dhandekar Bridge and Dattawadi. He has also stated that he also used to supply milk at the grocery shop belonging to Pralhad Mankar, the Complainant's father at Sinhagad

Road, Pune. He also stated that whenever either he or Rishipal or Ravi Singh used to visit the house of Pralhad Mankar for purpose of delivering milk, either his wife or his daughter used to come down to collect milk.

5. During the course of investigation, the photos of the persons who used to deliver milk to Pralhad Mankar were collated and the Complainant was confronted with the same. She identified the Applicant as the person with whom she had developed love relationship and who was responsible for committing forcible sexual intercourse and impregnating her. One Mahendra Thakar, who had caught the Applicant red-handed while indulging with the Complainant also identified the photos shown to him and both the prosecutrix as well as Mahendra Thakar are ad-idem that it is the Applicant who was the person who forcibly committed sexual intercourse with her.

6. The entire material is compiled by the Investigating Agency and the charge-sheet came to be filed on 13/03/2019 under Section 299 of the Cr.P.C. The Applicant had earlier moved before the Additional Sessions Judge, Pune seeking protection from his arrest but his application came to be rejected on 19/10/2019. There is no legal infirmity in the said order. The custodial interrogation of the present Applicant is very much necessary. The DNA samples of the Complainant and the newborn baby have been collected during the course of investigation but in order to trace whether it is the Applicant who is responsible for the sexual assault on the Complainant and as to

whether the child born out of the physical intimacy belongs to the Applicant, the DNA of the Applicant is also required to be collected. Learned counsel for the Applicant makes a submission that the relationship between the prosecutrix and himself is a love relationship and she being major it cannot be said that the sexual relationship between the two was against her wishes. This submission can be given weightage but the conduct of the Applicant post registration of the offence makes him dis-entitled for protection of his liberty. After the incident was reported in the month of July, 2018, the Investigating Agency is behind the Applicant but he evaded his arrest and though more than one year had elapsed since his Application came to be rejected by the trial court, he is still avoiding the arrest. This has resulted into a charge-sheet being filed under Section 299 of the Cr.P.C.

7. On 19/11/2019, Hon'ble Mr. Justice Sandeep Shinde has refused any interim relief in favour of the Applicant. Learned A.P.P. is perfectly justified in submitting that the DNA of the prosecutrix would have to compare with the DNA of the Applicant. His custodial interrogation is very much necessary for the said purpose and taking into account the past conduct of the Applicant and the fact that he is a permanent resident of State of Rajasthan, there is every likelihood that he would abscond if released on bail as he is concealing himself from the law enforcement agency for last two years. In such circumstances, the Applicant does not deserve any relief. The Application is rejected.

SMT. BHARATI DANGRE, J.