

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

ANTICIPATORY BAIL APPLICATION NO.2853 OF 2019

Amit Shankar Kamble

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Ms.Sana Raees i/b. Mr.Janak R. Krishnan, Advocate for the Applicant.

Mrs.Veera Shinde, APP for the Respondent - State.

Mr.Sandeep Anandrao Borkar, PSI, Loni Kalbhor Police Station, Pune, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 3, 2020.

P.C. :

This is an application for anticipatory bail. The applicant is apprehending arrest in connection with C.R.No.843 of 2019, registered with Loni Kalbhor Police Station, Pune, for the offences punishable under Sections 376(2) of Indian Penal Code ("IPC", for short) and under Sections 3(2)(j), 4 and 5(l) of Protection of Children From Sexual Offences Act ("POCSO Act", for short). First Information Report ("FIR", for short) was lodged by the victim on 2nd December, 2019. At the time of lodging the FIR, the victim was aged about 17 years and 6 months.

2 The prosecution case is that the victim was acquainted with the applicant prior to three years and they were on talking terms with each other. Applicant had liking for victim and was following her. He proposed her for marriage and stated that he would marry her once she attains the age of majority. The victim was taken to a lodge and there was a forceful sexual relationship between them. The accused represented that he is in love with her. Thereafter she was taken to various places where there was repeated physical relationship.

3 Learned advocate for the applicant submitted that the victim was of the age of understanding. The tenor of FIR indicate that the relationship was of consensual in nature. Although the victim was minor at the time of lodging the FIR, she was 17 years and 6 months. It was further submitted that the photographs of the applicant and victim would show that they were closely acquainted with each other. It is further submitted that the family members of the victim had earlier lodged FIR on 29th November, 2019 vide C.R.No.831 of 2019 with Loni Kalbhor Police Station against the family of the applicant. In the said FIR, there is no reference of the alleged acts reflected in the present FIR. It is submitted that the custodial interrogation of the

applicant is not necessary. He is ready to co-operate with the investigation.

4 Learned APP submitted that the victim is minor and her consent is immaterial. The applicant and victim was acquainted with each other since last two years. The victim was aged about 15 years at that time. Applicant had used Pan Card of some other girl to show that the victim is major girl while boarding lodge.

5 I have perused the FIR and the other documents. From the FIR, it is apparent that the victim and the applicant were acquainted with each other since last about three years. The victim had accompanied the applicant to various places. There was physical relationship between them. At the time of alleged FIR, the victim was 17 years and 6 months. In the light of factual matrix of the case, custodial interrogation of the applicant is not necessary. Hence, case for grant of anticipatory bail is made out.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Anticipatory Bail Application No.2853 of 2019,
is allowed;

- (ii) In the event of arrest of the Applicant in connection with C.R.No.843 of 2019, registered with Loni Kalbhor Police Station, Pune, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend the investigating officer of the concerned police station on 9th, 10th and 13th January, 2020, between 11:00 a.m. to 01:00 p.m., and, thereafter, as and when called for till filing of charge-sheet;
- (iv) Applicant is permitted to delete/remove the photographs annexed to this application;
- (v) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)