

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

927 ANTICIPATORY BAIL APPLICATION NO.1165 OF 2020

TEJASWINI D/O RUKHMAJI GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. A.D. Hande, Advocate for applicant

Mr. V.S. Badakh, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08th JANUARY, 2021.

ORDER :

1 The applicant is apprehending her arrest, in connection with Crime No.472/2020 registered with Nanded Rural Police Station on 23.06.2020, for the offence punishable under Section 363 of the Indian Penal Code, and therefore, she has filed present application for anticipatory bail under Section 438 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. A.D. Hande for the applicant and learned APP Mr. V.S. Badakh for the respondent.

3 It has been vehemently submitted on behalf of the applicant that the present applicant is a girl of 19 years old and she appears to have been

falsely implicated. The First Information Report has been lodged by the mother of the victim, who was minor, aged 16. The main allegations are against one Akash Kerba Kamble, who is the son of the sister-in-law of the informant. The applicant had herself was induced by accused Akash Kamble that she should help him. No role has been played by the present applicant in the alleged crime. Now, the victim has been traced out and in fact, an affidavit has also been filed by the informant before the learned Additional Sessions Judge, stating that there is a compromise between herself and the families of the applicant and the Akash. Even the applicant is daughter of another sister-in-law of the informant. It was specifically stated that they want to keep the relations as before, and therefore, they have no objection if the applicant is released on bail; yet, her bail application was rejected by the learned Additional Sessions Judge. The fact is that victim had a love with another boy and they were willing to marry and further they were assisted by Akash and present applicant. There was no intention on the part of the present applicant to kidnap the victim for any illegal purpose. She had left her house on her own. Even the kidnapped girl had revealed under Section 164 of Cr.PC. that she went on her own. The present applicant, even accused Akash are also aged 19 and 21. They are very young and if they are put behind the bars, then it would create problems in their life. Learned Advocate, therefore, canvassed for her pre-arrest bail.

4 Per contra, the learned APP opposed the application on the ground that the offence is serious. The victim had taken cash of Rs.30,000/- with two tolas of gold when she left the house. Possibility of tampering with the evidence cannot be ruled out, taking into consideration the relationship as well as the fact that they are residents of same vicinity.

5 At the outset, it is to be noted that the offences with which the accused has been arrayed in the FIR, per se, does not require any custody. The victim has returned, though she is minor and both the accused being major could have given her understanding. Though it may be a fact that she might be having some love affair, but taking into consideration her tender age, it might be the natural feelings, but they could have given her understanding and should have persuaded her to pursue her studies. But whatever appears to have been happened is not with a particular intention, which the informant intended to canvass. We must take a note of the affidavit that has been filed by the informant before the learned Additional Sessions Judge. Further, taking into consideration the age of the present applicant and the fact that her custody is not required, application deserves to be allowed. Hence, following order.

ORDER

1 Application stands allowed.

2 In the event of the arrest of the applicant viz. Tejaswini d/o Rukhmaji Gaikwad, in connection with Crime No.472/2020 registered with Nanded Rural Police Station on 23.06.2020, for the offence punishable under Section 363 of the Indian Penal Code, she be released on PR. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand only).

3 The applicant shall not indulge in any criminal activity nor she shall try to tamper with the evidence of prosecution, in any manner.

(Smt. Vibha Kankanwadi, J.)

agd