

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

ANTICIPATORY BAIL APPLICATION NO.380 OF 2021

Prashant Sudhakar Sawant

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondent

.....

Sudatta Patil a/w. Mr.Vikramsingh Parmar, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 01, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.2 of 2021, registered with Vithalwadi Police Station, District - Thane, for offences 354(A), 323, 504 and 506 of Indian Penal Code ("IPC", for short) and Sections 8 and 12 of Protection of Children from Sexual Offences Act ("POCSO Act", for short). First Information Report ("FIR", for short) was registered on 1st January, 2021.

2 FIR was lodged by the victim aged about 14 years alleging that she is residing with her parents, elder sister and younger sister. Her maternal uncles are residing at Nashik. The

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applicant-accused used to visit their residence. In June 2020, the applicant had visited her residence. She was alone in the house. At that time, he touched her inappropriately and outraged her modesty. She was threatened. She did not disclose the incident to her parents or sisters. The applicant was in relationship with her mother. She had seen them in compromising position. The accused was also found kissing her sister. When she disclosed the incident to her mother, she was assaulted. When she went to her maternal uncle's place at Nashik, she disclosed the said incident to them. Thereafter complaint was lodged with Indira Nagar Police station at Nashik. Subsequently, the investigation was transferred to Vithalwadi police station, District-Thane.

3 The applicant preferred an application for anticipatory bail before the Sessions Court apprehending arrest in connection with the aforesaid FIR. The said application was rejected on 25th January, 2021.

4 Learned advocate for the applicant submitted that the FIR is false. Applicant has been falsely implicated in this case. There is dispute between the mother of the complainant and her brothers. The maternal uncle of the complainant who are insisting that the marriage of elder sister of complainant should

be performed with alliance suggested by them. The mother of complainant had refused to accept the alliance. Hence, the maternal uncle of the complainant had grudge against the complainant's mother as well as sister. They induced the victim to lodge complaint against applicant and others. Applicant is a student of law. He has no criminal antecedents. The sister of the complainant has lodged complaint against the police on 2nd January, 2021 about highhanded manner in which she was subjected by them after registration of FIR. The applicant is willing to cooperate with investigation. It is submitted that no specific date of incident has been mentioned in the FIR. The first incident has allegedly occurred somewhere in June 2020. FIR was lodged on 1st January, 2021. The fact that the FIR was lodged at Nashik show that the complainant was acting under the influence of her uncle. It is further submitted that the statements of the complainant/victim was recorded before CWC on 4th February, 2021. The victim has stated that she lodged the complaint. The said complaint was lodged at the instance of her maternal uncle and aunt. She intends to go home and pursue her further studies.

5 Learned APP submitted that the applicant is charged with the offence under provisions of POCSO Act and Section

354(A). Allegations are attributed to the applicant. Custodial interrogation is necessary. Learned APP pointed out statement of complainant / victim recorded on 5th January, 2021, under Section 164 of Cr.P.C. In the said statement she stated that she do not wish to pursue the case. The applicant have suffered sufficient punishment and she do not wish to say anything. The statement was certified by the learned 6th J.M.F.C. Nashik. On the same day, the learned Magistrate passed an order stating that the victim was brought before him for recording statement on 5th January, 2021. She stated that she has fear for life from her parents and she wants writing on stamp paper that the accused will not visit their house and her parents would not assault her. The Court felt that the complainant is in need of care and protection and the question of safety needs to be decided by Child Welfare Committee and the child be produced before the Welfare Committee. It is pertinent to note that when a child is produced before the Welfare Committee she made statement on 4th February, 2021, as stated above.

6 At this stage, no finding can be given in respect to the variation in the statement of the complainant. However, considering the entire factual matrix, the applicant need not be subjected to custodial interrogation.

7 Hence, I pass the following order.

:: ORDER ::

- (i) Anticipatory Bail Application No.380 of 2021, is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R.No.2 of 2021, registered with Vithalwadi Police Station, District-Thane, the applicant be released on bail on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall not approach the complaint and shall not tamper with the evidence;
- (iv) Applicant shall not visit the residence of the complainant;
- (v) Anticipatory Bail Application No.380 of 2021, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)