

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

ANTICIPATORY BAIL APPLICATION NO.1076 OF 2020

Indrajeet Balishter Gupta

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....
Mr.K.S. Labana, Advocate for the Applicant.

Mrs.M.R. Tidke, APP for the Respondent – State.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 14, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I-559 of 2020, registered with Kolsheewadi police station, Kalyan, District-Thane, for the offence punishable under Section 376(2)(n) read with 34 of Indian Penal Code (“IPC”, for short) and Sections 4, 8 and 12 of Protection of Children from Sexual Offence Act (“POCSO Act”, for short).

2 The complainant is victim aged about 20 years. In the complaint dated 3rd October, 2020, it is alleged that she was acquainted with the applicant through Facebook. Both of them

**RajeP.
Aher**

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became friends. In 2017, they had exchanged messages. The applicant-accused had proposed her and represented that he is willing to marry her. In 2017 itself, the applicant and the victim girl went together in the room premises. There was physical relationship between them. The applicant promised her that he would marry her in a temple at Titwala. On 15th February, 2018, they went to Titwala. There was physical relationship between them. They stayed in a lodge where again there was sexual relationship between them. Subsequently, the applicant stopped contacting the victim and did not fulfill his promises of marriage. FIR was then registered on 3rd October, 2020. Learned counsel for the applicant submitted that the case of the complainant itself indicate that the relationship between both was of consensual nature. Although the victim was allegedly aged 17 years at the time of first incident, the relationship continued for further period.

3 Learned APP submitted that the provisions of POCSO Act is also invoked in this case. At the time of first incident in 2017, she was minor aged about 17 years. Physical relationship was induced under the false promise of marriage.

4 On perusal of FIR, it is apparent that although the victim was aged about 17 years at the time of the incident, it was the age of understanding and the relationship continued till 2020. Both of them met on several occasions. They stayed in a lodge. There was physical relationship between them. In the facts of this case, custodial interrogation of the applicant is not called for.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.1076 of 2020, is allowed;
- (ii) In the event of arrest of applicant in connection with C.R.No.I-559 of 2020, registered with Kolsewadi police station, Kalyan, District-Thane, the applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend the concerned police station once in three months on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;

- (iv) Applicant shall not approach the victim/ complainant and shall not try to tamper with the evidence;
- (v) Anticipatory Bail Application No.1076 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)