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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2569 OF 2021

DHANANJAY VITTHAL GAWADE

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

**Mr. Sanjeev Kadam a/w Varsha Thorat and Vilasini
Balasubramanian i/b Adv. Sachin Pawar for the applicant**

Ms. A. A. Takalkar APP for the State

Mr. Niranjani Mundargi for intervener

Mr. Irfan Nadaf, API, Tulinj Police Station

CORAM : NITIN W. SAMBRE, J.

DATE: NOVEMBER 26, 2021.

P.C.:

1] Applicant is seeking pre-arrest bail in C.R. No. 1027/2018 registered with Tulinj Police Station for offence punishable under Sections 376, 506 of the Indian Penal Code and under Section 3 and 25 of the Arms Act, 1959.

2] On 27/10/2021, this Court protected the applicant I am

informed that applicant was arrested on 23/04/2021 in C.R. No. 381/2018 registered with Virar Police Station for offence punishable under Sections 384, 386, r/w 34 of Indian Penal Code in which complainant in present crime is co-accused.

3] In the said crime no. 381/2018, complainant was arrested on 19/04/2018 and was granted bail on 26/04/2018 whereas after prayer for grant of pre-arrest bail was rejected, applicant is in judicial custody in the said offence since 23/04/2021.

4] As far as offence in the present case is concerned, it is claimed that on 29/09/2018, complainant alleged that sometime in September 2016 by calling the complainant to his office in late evening hours, promised her of securing important position in the party cadre, committed offence of rape.

5] Prayer for grant of pre-arrest bail is opposed by learned APP relying on statement of rickshaw driver. Mr. Mundargi supported the case of prosecution by assisting the APP and would urge that delay of

two years in lodging F.I.R. is very much explained. According to him, there is other material on record to support the case of prosecution.

6] The fact remains that statement of victim was recorded under Section 164 of Code of Criminal Procedure, 1973 on 11/06/2018 and she has not supported the case of prosecution to the extent of one punishable under Section 376 of Indian Penal Code. Perusal of statement recorded under Section 164 of Cr.P.C. speaks of offence under Section 354 of the Indian Penal Code wherein punishment is for three years. Allegation are based on stale instances for such delay, no convincing explanation is furnished.

7] Apart from above, it appears that investigation in the matter is almost over.

8] In that view of the matter, ad-interim protection stands confirmed.

(i) In the event of arrest of applicant in C.R. No. 1027/2018 registered with Tulinj Police Station for

offence punishable under Sections 376, 506 of the Indian Penal Code and under Section 3 and 25 of the Arms Act, 1959, he be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

(ii) Applicant shall neither influence prosecution witnesses in any manner nor tamper with evidence.

(iii) Applicant shall co-operate with the investigation.

9] Application stands disposed of.

[NITIN W. SAMBRE, J.]