

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2273 OF 2021

Gopal Ananda Salgar ...Applicant
vs.
The State of Maharashtra and Another ...Respondents

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Ms. Vilasini Balsubramaniam i/b. Mr. Jaydeep Mane, for the Applicant
Mr. P.H. Gaikwad, APP, for the State.
Dr. Uday Warunjikar, for the Respondent No. 2-first informant.

CORAM : N. J. JAMADAR, J.
DATE : JUNE 21, 2022

P.C.:

1. Heard the learned counsel for the applicant, the learned APP for the State and the learned counsel for the first informant.
2. This is an application for pre-arrest bail in connection with C.R. No.101 of 2021 registered with Karkamb police station, Solapur for the offences punishable under sections 376(3), 363, 366 read with 34, section 4 of the Protection of Children from Sexual Offences Act, 2012 and sections 9 and 10 of the Prohibition of Child Marriage Act, 2006.
3. On the basis of report lodged by respondent No. 2, the mother of the victim, crime was registered at C.R. No. 183 of 2021 initially against Vinayak Gore (accused No. 1) for the offences punishable under sections 363 and 366 read with 34 of the Penal Code for

having abducted the victim who was then 14 years old to compel her to marry. It further transpired that accused No. 1 had sexually exploited the victim and marriage was also solemnized though the victim was minor. The offences punishable under section 376(3) of the Penal Code and sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 came to be added. The investigation revealed the complicity of the applicant and other co-accused.

4. The allegation against the applicant is that on 12th June, 2021 the applicant had accompanied the principal accused Vinayak Gore to the house of the victim on motor-cycle. The victim was thereafter taken away on the said motor-cycle to a place near Tembhurni. The applicant was riding the said motor-cycle upto the point, the victim was shifted in a Maruti Ertiga car of co-accused Amol Darange.

5. The learned counsel for the applicant submitted that the aforesaid allegation against the applicant is based on the statement of principal accused. The co-accused Amol Darange, to whom a more serious role is attributed, has been granted pre arrest bail by this Court by an order dated 13th September, 2021. In this view of the matter, the applicant, to whom the role of having accompanied the accused No. 1 and victim to the particular place, also deserves to be given the benefit of pre arrest bail.

6. Learned APP resisted the prayer. Attention of the Court was

invited to the statement of the victim recorded, under section 164 of Code of Criminal Procedure, wherein the victim had stated about the presence of the applicant along with accused No. 1 and that she was taken away by the applicant and accused No. 1 on the motor-cycle, which the applicant was riding.

7. Mr. Warunjikar, the learned counsel appointed to espouse the cause of respondent No. 2, submitted that the applicant can not draw any mileage from the order passed by this Court on 13th September, 2021 as the said order was passed without providing any opportunity of hearing to respondent No. 2. Moreover, since the offences punishable under sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 are invoked, the applicant does not deserve the protection.

8. It is true that it does not appear that when the co-accused was granted relief of pre arrest bail, the respondent No. 2 was heard. Nonetheless, the substance of the matter can not be lost sight of. The role attributed to the applicant assumes critical significance. Amol Darange, the co-accused, who was ordered to be released on bail in the event of arrest, has been attributed with more serious role of having facilitated the solemnization of the marriage between accused No. 1 and the victim. From the perusal of the statement of the victim under section 164, it becomes abundantly clear that the

accusation against the applicant is that of having conveyed the victim and accused No. 1 on the motor-cycle till the victim was shifted in the Ertiga car of co-accused Darange. The principal accused has been arrested. Investigation is complete for all intent and purpose.

9. In the aforesaid view of the matter, at thus juncture, the custodial interrogation of the applicant does not seem warranted. I am, therefore, persuaded to confirm the order of interim pre arrest bail. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The interim order of pre arrest bail dated 22nd September, 2021 stands confirmed on the terms and conditions incorporated therein.
- 3] In addition, the applicant shall not contact the victim, the first informant, any of her family members and the prosecution witnesses.
- 4] The applicant shall not enter the limits of village Sangvi where the victim and first informant reside for a period of six months from today.

(N. J. JAMADAR, J.)