

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1147 OF 2023

Purabai Sandusing Jonwal

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. R. Dheple, Advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. S. A. Nagode, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 25th AUGUST, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0214/2023 registered with Badnapur Police Station, Tq. Badnapur, Dist. Jalna, for the offences punishable under Sections 363, 366, 366-A, 376(2)(i) read with Section 34 of Indian Penal Code, sections 4, 6, 8, 12 of Protection of Children from Sexual Offences Act and Section 3(1)(w) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Learned counsel for applicant states that charge-sheet has been filed in the present case and that the co-accused against

whom there is allegation of establishing physical relationship with the victim is arrested. It is further submitted that the co-accused against whom there is no allegation of abusing the victim girl is arrested and enlarged on bail. As far as present applicant is concerned, there is contention of learned counsel for the applicant that there is nothing on record to indicate that the present applicant is involved in the crime or even abetted commission thereof. Since charge-sheet is filed and investigation is over, according to him, nothing is to be seized at the instance of the present applicant.

3. Learned APP and learned counsel for the informant opposed the said contention by drawing attention of the Court to the fact that the victim herein is below age of 14 years and it is not a case of love affair between her and the co-accused. By referring to the charge-sheet, it is stated that it is a case of kidnapping of minor girl and thereafter ravishing her by accused. As far as present applicant is concerned, by referring to the statement of victim recorded before the learned Magistrate under Section 164 of Code of Criminal Procedure, it is submitted that the present applicant not only threatened her but also prevented her from going out of the house.

Thus, according to them, the present applicant has aided and abetted the act of commission of offence by the co-accused.

4. For the purpose of deciding anticipatory bail application, the Court is required to see gravity of the offence and nature of involvement of applicant in the crime. Prima facie perusal of the record indicates that it is not a case of love affair. Record however shows that the victim girl was kidnapped by the co-accused and was kept in the house of applicant for the period of two days. There is further medical evidence on record which indicates that the victim was subjected to forcible sexual assault by co-accused. Thus, record indicates that rape was committed on her. As far as present applicant is concerned, the allegation against her is not only restricted to threats given by them to the victim but she has candidly stated about she being prevented by the present applicant from going out of the house. The offence committed against minor is serious in nature. Applicant by doing positive act of preventing minor to go out of house where she was confined, has abetted co-accused in commission of the crime.

5. In considered view of this Court, having regard to the serious nature of the offence and the allegations levelled against the present applicant, the discretionary relief of anticipatory bail cannot be extended to her. Offence is punishable under Prevention of Children from Sexual Offences Act and there is prima facie involvement of the applicant in the crime in question. Thus, this is not a fit case for grant of anticipatory bail. Hence, application stands rejected. Fees of the appointed counsel is quantified at Rs. 6,000/-.

(R. M. JOSHI)
Judge

dyb