

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1312 OF 2023

Shriram Navnath Wahatule

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. S. E. Shekade, Advocate for the applicant.

Mr. N. B. Patil, APP for the State.

Mr. J. S. Jain, Advocate (appointed) for respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 6th DECEMBER, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0262/2023 registered with Jamkhed Police Station, Tq. Jamkhed, Dist. Ahmednagar for the offences punishable under Sections 376(2), 376(2)(f), 376(2)(i), 363 of Indian Penal Code and Sections 4, 6, 18 of Protection of Children from Sexual Offences Act.

2. First informant is a minor victim who has made allegation against co-accused of committing sexual assault on her. It is stated in the First Information Report that she was forcibly taken to a lodge wherein she was subjected to sexual assault. As far as

present applicant is concerned, he is manager of the lodge and he claims to have allotted room to the accused.

3. Learned counsel for the applicant submits that even if allegations made in the First Information Report are accepted to be true, it cannot be held that applicant has aided or abetted act of commission of crime. By referring to Section 107 of Indian Penal Code, it is stated that in absence of any instigation, conspiracy or intentional aid it cannot be held that applicant has committed offence as alleged.

4. Learned APP and learned counsel for informant opposed the application essentially by contending that applicant herein without verifying documents and ascertaining identity has allotted room to the applicant. Thus, according to them, this act of the applicant by itself is sufficient to constitute abetment of crime being committed by the applicant.

5. There is no allegation against the present applicant of committing any sexual assault. He is the manager of the lodge where co-accused had taken the victim and it is stated that she was

sexually assaulted there. Though there are statements of witnesses which indicate that present applicant had allotted room in the said lodge, there is nothing to show that the applicant has conspired or intentionally aided in commission of crime. Perusal of statement of witnesses indicate that a couple came to the lodge and a room was allotted to them. If any other offence is committed by the applicant, it is open to prosecute him for the same. However, prima facie, it cannot be said that act of applicant is in aid to the co-accused for commission of crime. There are no criminal antecedents against the applicant. Applicant is not likely to flee from justice. Hence, application is allowed in terms of the interim order. Fees of the appointed counsel is quantified at Rs. 6,000/-.

(R. M. JOSHI)
Judge

dyb