

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1641 OF 2022

Somnath Sudhakar Kate Applicant

Versus

The State of Maharashtra
and others Respondents

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Mr. Sudarshan J. Salunke, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State
Ms. Sangita Sambre, Advocate (appointed) for Respondent No.3

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 11th JANUARY, 2023

ORDER :

1. The applicant apprehends his arrest in connection with Crime No. 0220 of 2022 registered with Neknoor Police Station, District Beed for offences punishable under sections 376(2)(N), 354, 354-A, 504, 506 of the Indian Penal Code and sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act.

2. Initially, respondent No.3 lodged FIR on 25/09/2022, which was registered for offences under sections 354, 354-A, 504, 506 of the Indian Penal Code, alleging that the applicant outraged her modesty. The applicant was arrested in the said

crime on 28/09/2022, and was released on regular bail on 29/09/2022. On 01.10.2022, supplementary statement of respondent No.3 was recorded, wherein she has alleged that on 20/04/2020, at 2.00 a.m. in the night, when she was going to agricultural field to attend nature's call, the applicant who is her cousin brother-in-law committed rape on her. He took photos and recorded the act in his cell phone. Thereafter, by giving threats to disclose photos and videos, he has repeatedly committed rape on her. Pursuant to supplementary statement and statement under section 164 of the Code of Criminal Procedure, section 376 (2)(N) of the Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act were added in the crime. Hence, this application.

3. Heard learned advocate for the applicant, learned Additional Public Prosecutor for the State and learned advocate for respondent No.3. Perused the investigation papers.

4. Admittedly, the applicant was arrested in the present crime, and was granted regular bail. The applicant's medical examination is conducted, and his cell phone is already seized by the Investigating Officer.

5. Considering belated disclosure of respondent No.3, and the fact that the applicant has co-operated in the investigation, and his cell phone is seized. Nothing is to be recovered from the applicant, pre-trial custodial detention of the applicant, in the facts of the present case, is not necessary.

6. In the result, application is allowed by confirming the interim order.

7. Till filing of the charge sheet, the applicant shall not enter village *Dhavjyachi Wadi*. The applicant shall attend the concerned police station as and when called by the investigating officer and co-operate in the investigation. The applicant shall not tamper the prosecution evidence.

8. The fees of learned advocate for respondent No.3 is quantified at Rs.3,000/-, which shall be paid to her by the High Court Legal Services Sub Committee, Aurangabad within a period of four weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane