



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1446 OF 2023**

Nitin Shivaji Shinde	...	Applicant
versus		
The State of Maharashtra & Anr.	...	Respondents

Mr. Chetan Damre for Applicant.
Mr. R.M.Pethe, APP for State.
Ms. Farzana Khan for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 5 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.158 of 2021 registered with Wadner-Khakurdi Police Station for the offences punishable under Sections 376(2)(j), 376(2)(k), 376(3) read with Section 34 of Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006.
3. The first informant is the sister of the applicant. On 9 April 2021, the first informant lodged a report alleging that she was then 17 years and 3 months of age. On 21 November 2017 her mother and the applicant had solemnized her marriage with one 'K', and her mother had taken a sum of Rs.1 Lakh from 'K' in consideration of marriage. Her mother made her to dissolve the marriage with 'K'. The first informant

alleged, the applicant, her mother and friend of her mother made her to marry 'W' on 9 December 2018 at Ranjangaon. They obtained an amount of Rs.1,20,000/- from the groom. Eventually, her mother raked up quarrel with her husband 'W' and in laws and brought her back to Ravalgaon. The Applicant and her mother made her to marry third time with one 'S' on 25 April 2020. For the said marriage, a sum of Rs.1,60,000/- was taken from the groom.

4. The first informant alleged that each of her husband had forcible physical relations with her. The first informant came to her parental home on 18 March 2021. Her mother started to make preparations to marry her off on the fourth occasion. The first informant, thus, lodged a complaint with the Child Helpline No.1098.

5. Apprehending arrest, the applicant approached the Court of Session. By an order dated 12 August 2021, the learned Additional Sessions Judge declined to exercise discretion in favour of the applicant. In the meanwhile, post completion of investigation, chargesheet came to be lodged. The applicant has preferred this application for pre-arrest bail in the month of May 2023.

6. The learned Counsel for the applicant submitted that in Sessions Case No.82 of 2021, the first informant has sworn an Affidavit that on account of misunderstanding and at the instigation of her material uncle, she had lodged report against her mother, applicant and others. Since the first informant has now no

grievance against the applicant, her mother and other relatives and the investigation is complete for all intent and purpose, the applicant deserves the exercise of the discretion.

7. I am not inclined to accede to these submissions. As noted above, the allegations in the FIR and the supplementary statement of the first informant indicate that the first informant was made to marry three times before she completed 17 years of age. On each of the occasion, the applicant and the co-accused obtained money from the respective groom. When the first informant was to be married off on the fourth occasion while she was still a minor, the first informant herself contacted the Child helpline and lodged the complaint.

8. The first informant alleged that each of the persons with whom she was made to marry subjected her to sexual exploitation. The allegations are prima facie grave and indicate that the first informant was made to undergo marriages and suffer sexual exploitations for monetary consideration. The allegations also appear to be specific with reference to the date of the marriage, place of marriage and the person with whom the first informant was made to marry.

9. In the aforesaid backdrop, the fact of the first informant filing an affidavit after two years of the lodging of the report; disowning the allegations therein, cannot be urged to dilute the gravity of the offences. What accentuates the situation is the fact that the application for pre-arrest bail was rejected by the learned Additional

Sessions Judge on 12 August 2021. It does not seem that the applicant moved for pre-arrest bail in the intervening period. The first informant seems to have affirmed an affidavit on 20 January 2022. The instant application came to be filed on 4 May 2023. This factor also deserves to be taken into account. Moreover, the prosecution alleges that the applicant has been prosecuted for the offences punishable under the Protection of Children from Sexual Offences Act, 2012. In the totality of the circumstances, the application deserves to be rejected.

10. Hence, the following order :

ORDER

- (i) The Application stands rejected.
- (ii) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)