

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2379 OF 2023

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KULKARNI

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Sarjitsing Bachansing Panjabi

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Chandlal Kurup, for the Applicant.

Mr. P. H. Gaikwad, APP for the State/Respondent.

Mr. S. V. Vagare, API, Hill Line Police Station, Thane City,
present.

CORAM: N. J. JAMADAR, J.

DATED: 20th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.221 of 2023, registered with Hill Line Police Station, Thane, for the offences punishable under Sections 376(2)(n), 376(2)(f), 376(3) and 506 of Indian Penal Code, 1860 ("the Penal Code") and Sections 4, 5, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("the POCSO Act").

3. The applicant works as a plumber at Ulhasnagar. The applicant is a native of Rajasthan. The applicant, his wife

and children shifted to Rajasthan in December, 2022 as his wife was not keeping good health. On 17th April, 2023, the applicant returned to Ulhasnagar alongwith his elder daughter – victim, a son and sister. The sister returned to Rajasthan on 21st April, 2023. During the period 23rd April, 2023 to 26th April, 2023, the applicant allegedly sexually exploited the victim. The applicant allegedly subjected the victim to aggravated sexual assault. The victim was threatened out of her life on the point of knife. After the victim returned to Rajasthan, the victim narrated the incident to her mother. Thereupon the mother took her to Kunhadi Police Station, Kota, Rajasthan, thereafter victim was brought to the jurisdictional Hill Line Police Station, Thane, and the FIR came to be registered.

4. Apprehending arrest the applicant approached Court of Session. By an order dated 26th July, 2023, the learned Additional Sessions Judge declined to grant the relief of pre-arrest bail. Mr. Kurup, the learned Counsel for the applicant, submitted that, in the intervening period, investigation is complete and charge-sheet has been lodged. Custodial interrogation of the applicant to facilitate further

investigation is not warranted. And, therefore, the applicant be released on pre-arrest bail.

5. The learned APP resisted the application by submitting that the allegations against the applicant are grave. The mere fact that investigation is complete cannot be a ground to grant pre-arrest bail in the face of such grave allegations.

6. I have perused the allegations in the FIR and the statement of victim and her mother recorded under Section 164 of the Code of Criminal Procedure, 1973 before the learned Magistrate. The victim has categorically stated about the sexual exploitation at the hands of the applicant. The allegations in the FIR, *prima facie*, find support in the statement of the victim under Section 164 of the Code. Mother of the victim also, *prima facie*, lends support to the claim of the victim. There is, at this stage, a very strong *prima facie* case against the applicant of having committed the offences under Sections 376(2)(n), 376(2)(f) and the offence punishable under Section 10 of the POCSO Act. The allegations are grave. The applicant has allegedly made himself scares.

7. In the aforesaid background, at this stage, the submissions on behalf of the applicant that since charge-

sheet has been lodged the applicant deserves to be released on bail in the event of arrest, does not merit acceptance. Gravity of the allegations especially in the context of the fact that the applicant allegedly abused his parental authority and custody of the child to gratify his lust, dissuades the Court from exercising the discretion in favour of the applicant. Hence, the application deserves to be rejected.

8. Hence, the following order:

: O R D E R :

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

[N. J. JAMADAR, J.]