

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

ANTICIPATORY BAIL APPLICATION NO. 2537 OF 2023

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Tarasing Pandit Rathod ...Applicant
Versus
State of Maharashtra and anr. ...Respondents

Mr. Viresh Purwant, i/b Vikrant Phatate, for the Applicant.
Smt. Ashvini Takalkar, APP for the State/Respondent.
Mr. Akshay Bankapure, Appointed for Respondent No.2.
PSI U. S. Shaikh, Valsang Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 27th 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.305 of 2023, registered with Valsang Police Station, Solapur Rural, for the offences punishable under Sections 109, 313 and 504 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. Respondent No.2 lodged a report with the allegations that she had conceived out of a relationship with a boy against whom an offence was registered at Valsang Police Station vide CR No.512 of 2022. She had refused to

accompany her parents and, therefore, she was kept in the Children Home at Solapur. On 19th July, 2023, her mother and sisters took her home with an assurance that she and her child would be taken good care of. On 29th July, 2023, she was taken by her sisters to Vijayapura and she was admitted in a hospital. She was forced to abort the foetus. When she resisted, one of the sisters – co-accused allegedly called the applicant, who is the cousin of the first informant, and the applicant also exerted pressure on her to abort the foetus.

4. The learned Counsel for the applicant submitted that the applicant is an Advocate by profession. He has been falsely roped in. There is no material to indicate that the applicant had called the first informant or the sister of the first informant. Thus, the offence punishable under Section 313 of the Penal Code *prima facie* cannot be attributed to the applicant.

5. Mr. Bankapur, the learned Counsel, was appointed to espouse the cause of the first informant – respondent No.2.

6. I have perused the statement of the first informant recorded under Section 164 of the Code of Criminal Procedure, 1973. In the said statement the first informant

does not attribute to the applicant the role of exerting pressure on her, though she states that her sister had called the applicant and asked him to persuade the first informant. Mr. Bankapur submits that the first informant – respondent No.2 has given written instructions to him that she has no objection to grant pre-arrest bail to the applicant.

7. Only role attributed to the applicant is that of exerting pressure on the first informant to abort the foetus, while speaking with her on phone. From the perusal of the statement of the victim under Section 164 of the Code, the question as to whether the applicant had indeed exerted pressure on the first informant appears debatable. Applicant appears to have roots in society. Possibility of fleeing away from justice, seems remote. Therefore, I am inclined to exercise the discretion in favour of the applicant.

8. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.305 of 2023, registered with Valsang Police Station, Solapur Rural, the applicant be released on bail on furnishing a P.R. Bond in the sum of

Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall cooperate with the investigation and attend Valsang Police Station on 12th 13th and 16th October, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and contact the first informant and/or give threat or inducement to the first informant or any person acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]