

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.2724 OF 2023**

Gorang Kalipoda Pal ...Applicant  
vs.  
The State of Maharashtra and Another ...Respondents

Ms. Pravada Raut, for the Applicant  
Ms. Anamika Malhotra, APP, for the Respondent/State.  
Mr. Siddharth J., for Respondent No. 2.

**CORAM : N. J. JAMADAR, J.**  
**DATE : DECEMBER 14, 2023**

**P.C.:**

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The respondent is present before the Court. The respondent submits that she has affirmed the affidavit dated 9<sup>th</sup> November, 2023 on her own volition and there is no coercion or duress.
3. This Court had granted interim bail to the applicant on 5<sup>th</sup> October, 2023 observing inter alia as under:-

2] This is an application for pre-arrest bail in connection with CR No.95 of 2021, registered with Mahabaleshwar Police Station, District Satara, for the offences punishable under Sections 376, 376(3), 354-A, 312, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code") and Sections 4, 8, 12 and 17 of Protection of Children from Sexual Offences Act, 2012.

3] At the outset, the learned Counsel for the applicant submits that respondent No.2 - victim is cohabiting with the applicant and they have a daughter. In the

Court of Session respondent No.2 had appeared and filed an affidavit in support of the prayer for pre-arrest bail. The learned Additional Sessions Judge, however, having regard to the alleged acts of sexual exploitation while the victim was a minor, declined to exercise the discretion in favour of the applicant.

4] Prima facie it appears that the victim lodged FIR while she was about 22 years of age. In fact, this is a second round before this Court as the first Bail Application No.362/2022 was permitted to be withdrawn with liberty to approach the Court of Session on account of the purported change in circumstances.

4. The respondent No. 2 states that she is cohabiting with the applicant and she has a daughter by the applicant. In the affidavit the respondent No. 2 has asserted, inter alia, as under:-

2] I say that I married the applicant in the year 2018 and further have begotten a child out of the said wedlock on 20<sup>th</sup> March, 2020. I say that I am very happy in the said marriage and have no complaint against the applicant.

3] I say that the applicant and me have been residing together for last more than one year and that the applicant has taken utmost care of me and my child and provided us with all the necessary amenities.

5. The situation which thus emerges is that the first informant lodged the report when she was about 22 years of age in respect of the sexual exploitation which allegedly commenced while the first informant was a child. It appears that even after attaining majority, the applicant and the first informant have been cohabiting. The factum of marriage of the applicant with the first informant, as alleged may does not dilute the gravity of the offences especially

those punishable under section 376(3) of the Indian Penal Code and sections 4, 8, 12 and 17 of Protection of Children from Sexual Offences, Rules, 2012. Nonetheless, at this stage, in the light of the rather indisputable fact that the applicant and respondent No. 2 have been residing under one roof and post marriage they have a child, the custodial interrogation of the applicant does not seem to be warranted. The time lag also deserves to be taken into account.

6. I am, therefore, inclined to hold that, in the peculiar facts of the case, the order of interim bail deserves to be made absolute.

7. The order of interim bail dated 5<sup>th</sup> October, 2023 is made absolute on the terms and conditions incorporated therein.

8. In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.

9. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

**(N. J. JAMADAR, J.)**