



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2841 OF 2023

Maruti Krishna Desai ...Applicant

Versus

The State of Maharashtra and anr. ...Respondents

Mr. Nilesh Wable, a/w Stefy Dias and Umesh Mankapure, for
the Applicant.

Mr. M. G. Patil, APP for the State.

PSI Mahesh Gaikwad, Jat Police Station, Sangli, present.

CORAM: N. J. JAMADAR, J.

DATED : 11th OCTOBER, 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.483 of 2023, registered with Jat Police Station, Sangli, for the offences punishable under Sections 376(2)(n), 376(3), 366 and 363 of Indian Penal Code, 1860 ("the Penal Code") and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The first informant lodged a missing report in respect of her daughter, who was then 15 years of age. She reported that on 15th August, 2023 at midnight she and her son had gone to the field to water the crop. When they returned in the morning

the child was not at home. Eventually, accused No.1 Akshay and the child were found at Pune at the house of the maternal uncle of accused Akshay.

4. In the meanwhile, the father of the child filed a complaint making allegations against the applicant, his son Swapnil and Akshay, who was working as a driver on the vehicle of the applicant to the effect that they alongwith two unknown persons had kidnapped his daughter and also committed theft of the cash and the ornaments.

5. The learned Counsel for the applicant submitted that the applicant has been falsely roped in on account of political rivalry in the village. In the missing report as well as the initial statement of the child the applicant was not at all named. On the contrary, the child had stated that it was accused Akshay alone, who had forcibly made her to pillion ride the motorcycle and took her to Paranda, District Osmanabad. The child had also stated that on that night, accused No.1 Akshay had sexually exploited her.

6. The learned APP, on the other hand, submitted that the statement of the child came to be recorded under Section 164 of the Code of Criminal Procedure, 1973 and the child has named the applicant.

7. I have perused the statement of the child recorded before the learned Magistrate. The child has specifically named the applicant and his son Swapnil Desai as the persons, who has barged into her house on the night of occurrence and forced her to flee away alongwith Akshay. When she resisted the applicant had allegedly threatened to cause harm to her if she did not accompany Akshay.

8. It is true in the initial statement recorded before the police the child had not named the applicant. However, in the statement recorded under Section 164 of the Code of Criminal Procedure, 1973, the child has categorically named the applicant as the person, who had entered into her house on the night of occurrence and made her to accompany the accused Akshay. It is imperative to note that accused Akshay was 28 years of age. After the child accompanied him, the said accused repeatedly sexually exploited the said child.

9. In the face of the aforesaid material, at this stage, it would be rather difficult to accede to the submission on behalf of the applicant that he had been roped in on account of political rivalry. In fact, the father of the child had entertained suspicion against the applicant on the very next day of the occurrence and filed a complaint on 17th August, 2023.

10. In the aforesaid view of the matter and having regard to the nature of the accusation, I am not inclined to exercise the discretion in favour of the applicant.

11. Hence the following order:

: O R D E R :

- (i) The application stands rejected.
- (ii) 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.]