

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 3294 OF 2022

**SANTOSH
SUBHASH
KULKARNI**

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2023.02.02
10:45:17 +0530

Abdullah Ejaz Nisir Husain

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Mahendra Sandhyanshiv, for the Applicant.

Mrs. Rutuja Ambekar, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED: 24th JANUARY, 2023

ORDER:-

1. This is an application for pre-arrest bail in connection with CR No.62 of 2022 registered with City Police Station, Malegaon, District Nashik, for the offences punishable under Sections 376, 376(2)(n), 354-A and 406 of Indian Penal Code, 1860, ("the Penal Code").

2. Earlier the applicant had preferred an application, being Anticipatory Bail Application No.1908 of 2022. However, as this Court was not inclined to consider the said application, it was then withdrawn by the applicant.

3. The applicant has again moved this Court with the assertion that two of the co-accused have been released on

bail, post their arrest, by the learned Sessions Judge, Malegaon. Moreover, post completion of investigation, the police have lodged charge-sheet. Thereafter, the principal accused Ansari Habbibur Rehman Usman Gani has been released on bail by this Court by an order dated 29th September, 2022 in Bail Application No.2048 of 2022.

4. The learned Counsel for the applicant submitted that the applicant was not named in the FIR wherein allegations were made primarily against Ansari Habbibur Rehman Usman Gani of having repeatedly ravished the prosecutrix. In a supplementary statement, the applicant came to be falsely roped in.

5. I have perused the FIR. The tenor of the FIR is that accused No.1 had sexually exploited the prosecutrix since one and half years prior to the lodging of the FIR by threatening to circulate the videos of the said act. In the supplementary statement the prosecutrix stated that the principal accused had made her to satisfy the lust of the applicant. The applicant took her to a room situated near Fateh Maidan, Nayapura, Malegaon and ravished her.

6. This claim of the prosecutrix finds support in the statement of the lady occupant of the said house. The latter

states that on that day, when the prosecutrix was allegedly ravished, the applicant brought a lady, who was wearing a veil, to her house and they were in the room for about one hour.

7. In the face of the aforesaid material and the gravity of the allegations, no case for exercise of discretion to grant pre-arrest bail is made out. In view of the specific allegations, custodial interrogation of the applicant seems warranted.

8. The fact that the principal accused and the co-accused have been released on regular bail, post arrest, does not entitle the applicant to be released on pre-arrest bail.

9. Hence, the following order.

: O R D E R :

Application stands rejected.

[N. J. JAMADAR, J.]