



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3464 OF 2023**

Akshay @ Bunty Suresh Pisal

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Rajiv Patil, Sr. Advocate i/by Mr. Rupesh Zade, for Applicant.

Ms. Anamika Malhotra, APP for State.

Mr. B.S.Shinde, for Intervener.

Mr. S.B.Kale, PC, Indapur Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 14 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.

2. “This is an application for pre-arrest bail in connection with C.R.No.750 of 2023 registered with Bhigwan Police Station for the offences punishable under Sections 376(2)(n), 354C, 506 read with Section 34 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The first informant lodged a report with the allegations that in the year 2019, while pursuing education, she was working as a part time sales girl. The applicant used to pursue her. However, she did not cave in to the desire of the applicant. Sahil, accused No.1, had sent objectionable video of the first informant to her and started to harass and blackmail her. Accused No.1 threatened to upload the video on social media and make it viral. When the applicant called the first informant,

SSP (corrected order as per Speaking the Minutes of Order dated 19 Dec. 2023)

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the latter narrated the harassment she was subjected to by the accused No.1.

4. The first informant alleged, the applicant on the pretext of solving the problem she was facing, called her to meet him and by showing her the very same video, sexually exploited her in a four wheeler. The applicant allegedly had objectionable photographs of the first informant with him. Thereafter, the applicant continued to sexually exploit the first informant repetitively. The first informant alleged that the applicant and accused No.1 joined hands. The applicant had allegedly obtained the said video from accused No.1 for monetary consideration. The first informant alleged, in one incident in the year 2021, the accused No.1 had initially subjected her to sexual exploitation and, thereafter, the applicant also had sexual intercourse with her without her consent. Thereafter, both the accused No.1 and the applicant repetitively exploited her at Neha Lodge at Baramati. Eventually, having found no way to come out of the clutches of the applicant and the co-accused, the first informant claimed to have lodged the report.

5. Mr. Rajiv Patil, learned Senior Advocate, appearing for the applicant submitted that the allegations in the FIR are inherently improbable. The first informant and her associates have hatched a conspiracy to extort money from the father of the applicant by giving threats of falsely prosecuting the applicant for having committed sexual offences qua the first informant. The father of the applicant, thus, lodged a report vide C.R.No.749 of 2023 for an offence punishable under Section 384

read with Section 34 of IPC. By way of counter blast, the first informant has lodged this report.

6. Mr. Patil would further submit that there is an inordinate delay in reporting the matter to the police. Version of the prosecutorix that she was exploited for over three years by the accused cannot be readily believed. During this long period, the first informant must have had innumerable opportunities to take assistance of the law enforcement agencies. Yet, the FIR came to be lodged after the father of the applicant lodged report of extortion against the first informant and her associates.

7. Learned APP stoutly resisted the prayer for pre-arrest bail. It was submitted that the first informant is a victim of the exploitation by the accused. Adverse social and financial condition and vulnerabilities of the first informant were exploited by the applicant and the co-accused. The first informant has given vivid account of the manner in which she was abused. At this stage, the version of the first informant cannot be discarded. It was further submitted that there are statements of witnesses, who lend credence to the version of the first informant. Moreover, in the mobile handset of accused No.1, the photos of the accused No.1 and the first informant have been found.

8. Learned APP further submitted that after the lodging of the FIR, the applicant's father had resorted to criminal intimidation. The first informant had reported the said incident also. In the circumstances, the applicant does not deserve

exercise of discretion.

9. Mr. Shinde, learned Counsel for Respondent No.2, also resisted the prayer for pre-arrest bail. It was submitted that the report lodged by the father of the applicant was with a design to preempt the action by the first informant and save the applicant.

10. I have carefully perused the allegations in the FIR. Indeed, the incident of exploitation allegedly commenced in the year 2019. The aspect of delay deserves consideration. However, the entire construct of the allegations in the FIR cannot be lost sight of. It is not a case where the victim alleges sexual exploitation by giving promise of marriage or arising out of a relationship between the parties. The first informant has alleged that the applicant and co-accused exploited her by giving threats of making her objectionable videos viral.

11. Prima facie, there is material to show that initially accused No.1 subjected the first informant to harassment and sexual exploitation. Later on, on the pretext of saving her from further exploitation, the applicant also subjected her to forcible sexual intercourse. What aggravates the situation is the allegation that the applicant obtained the video containing objectionable material from the co-accused for monetary consideration and abused the first informant by giving threats. To add to this, the first informant alleges, the accused No.1 and the applicant joined hands and exploited her on multiple occasions together.

12. As noted above, the accused No.1 has been arrested and the mobile phone handset, seized from the accused No.1 contains incriminating material. The first informant has also given necessary particulars of places where she was exploited and the evidence which bears out those allegations.

13. It is trite, the version of the prosecutorix does not require corroboration. At this stage, especially in the context of absence of the claim of consensual relationship, the grave allegations in the FIR cannot be brushed aside either on the count of being inherently improbable or delay. Prima facie, it appears that the first informant got embroiled in vicious circumstances and was exploited over a period of time. In the aforesaid view of the matter, I am not inclined to accede to the submissions of Mr. Patil.

14. The lodging of the FIR for extortion, prima facie, appears to be a double edged tool. The allegation of extortion do not rule out the allegation of sexual exploitation. Existence of material to support the allegations of sexual harassment of the first informant at the hands of the applicant, could furnish a ground for attempt of extortion as well.

15. Since it is alleged that post lodging of the FIR, there have been attempts of intimidation and also having regard to the nature of the allegations, the apprehension on the part of the prosecution that there is a strong possibility of tampering with evidence and threatening the first informant and witnesses cannot be

said to be unfounded.

16. For the foregoing reasons, I am not inclined to exercise discretion in favour of the applicant.

17. Hence, the following order :

ORDER

(i) The application stands rejected.

(ii) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)