

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

ANTICIPATORY BAIL APPLICATION NO. 3561 OF 2023

Prakash Ashok Raj	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. A. Bihari Dubay, for Applicant.

Ms. Anamika Malhotra, APP for State/Respondent.

Mr. Sunil Sonawane PSI, Charkop Police station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 19th DECEMBER, 2023

PC:-

- 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. 115 of 2021, registered with Charkop Police Station, for the offences punishable under Sections 366(A), 372, 465 and 467 of Indian Penal Code, 1860 ("the Penal Code") and Sections 4, 5 and 9 of Immoral Traffic (Prevention) Act, 1956.

3) The learned Counsel for the applicant submitted that the only role attributed to the applicant is that of pursuing and tracing the first informant when she had allegedly left her home on 21st December, 2020. The first informant was allegedly traced at Bhayandar and the applicant and the co-accused had assaulted her. In respect of the said incident, the first informant had lodged N.C No.2017 of 2020 at Navghar Police Station, Thane.

4) The learned Counsel for the applicant submitted that the co-accused, who were allegedly involved in the said incident, were granted pre-arrest bail by this Court by an order dated 5th July, 2021.

5) I have perused the order dated 5th July, 2021. This Court was persuaded to grant pre-arrest bail to the co-accused against whom identical allegations were made observing, inter alia, as under:-

“...8. I have considered these submissions. As rightly submitted by learned counsel for the Applicants, the only allegation against the Applicant are regarding the incident dated 21/12/2020, for which N.C. is already lodged at Navghar police station. The allegations of driving the informant to prostitution, are specifically restricted against parents of informant and there are no allegations against the present Applicants in respect of that particular aspect. Even supplementary statement of the informant is restricted to incidents, when the

informant and her friend were beaten.

9. I do not think in this particular case, the allegations against the present Applicants can be stretched to such an extent to bring their act within the ambit of the main offence u/s 366-A and 372 of IPC or under various provisions of PITA.

10. In my opinion, interest of justice will be served if the Applicants are directed to attend the police station regularly, so that there is sufficient check on their activities, and there is no further harassment to the informant at their hands...”

6) The learned APP submitted that the role of the applicant is identical yet since the applicant has not approached the Court for pre-arrest bail immediately after the registration of the FIR like those co-accused, the applicant does not deserve the exercise of discretion. It was submitted that in the intervening period, charge-sheet has been lodged.

7) Ordinarily, an accused ought to approach the Court within a reasonable time. However, delay per se cannot defeat the statutory right of the accused to seek pre-arrest bail. As the applicant is similarly circumstanced like the co-accused, who have been granted the pre-arrest bail, the applicant deserves the same dispensation.

8) Hence, the following order.

:ORDER:

I) In the event of the arrest of the applicant in connection with CR. No. 115 of 2021, registered with Charkop Police Station, for the offences punishable under Sections 366(A), 372, 465 and 467 of Indian Penal Code, 1860 and Sections 4, 5 and 9 of Immoral Traffic (Prevention) Act, 1956, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Charkop Police Station, on 4th and 5th January, 2024 in between 10.00 am to 1.00 pm, and thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons 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 the entitlement to pre-arrest bail only.

VI) The application stands disposed.

[N. J. JAMADAR, J.]