



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 ANTICIPATORY BAIL APPLICATION NO. 296 OF 2024

Vikas @ Arun S/o Vinayak Mokale
VERSUS
The State of Maharashtra and another

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Advocate for Applicant : Mr. Satish P. Dhobale h/f Mr. Chetan R. More
APP for Respondent Nos. 1 and 2: Mr. P.K. Lakhotiya
Advocate for Respondent No.3 : Mr. Yogesh H. Lagad

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CORAM : SHIVKUMAR DIGE, J.
DATED : 5th SEPTEMBER, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with crime No.537 of 2023 registered with Badnapur Police Station, district Jalna, for the offences punishable under Sections 363, 366-A, 376(1), 376(f)(i)(n) r.w. 34 of Indian Penal Code and sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. It is the prosecution's case that the prosecutrix is of 15 years old girl. She is daughter of the first informant. On 11.8.2024 the prosecutrix went to the school. The 15th August, was on fourth day hence, the informant went to the school of the prosecutrix to deposit the dress fees of the prosecutrix, but she did not find her in the her class. Hence, she enquired with her teacher. At that time, the teacher told her that the prosecutrix left the school at 1.30 p.m.

stating that she is going with her brother. Thereafter, the informant came to the house and waited for the prosecutrix, but she did not return to the house. She enquired with her relatives. Thereafter, after 2 to 4 days, she came to know that she has married with the applicant. It is alleged that the applicant and his mother abducted the daughter of the informant, induced her and performed her marriage with the applicant.

3. It is the contention of the learned counsel for the applicant that there is delay of more than four months in lodging the complaint. The informant's daughter i.e. prosecutrix herself came to the house of the applicant and she is staying there. She has refused for medical examination. In her U/Sec. 164 of Cr.P.C. statement, the prosecutrix has stated that she herself has come to the house of the applicant as her mother i.e. the informant had performed marriage with another person. In the said statement, she has further stated that she stays in the house of the applicant with accused No.1 i.e. paternal aunt of the prosecutrix and there is no physical relationship between her and the applicant. Learned counsel further submitted that considering the statement of the prosecutrix under section 164 of Cr.P.C. the custodial interrogation of the applicant is not required and requested to allow the application.

4. It is the contention of the learned APP alongwith learned counsel for respondent No.3 that the applicant abducted the prosecutrix from her school and performed marriage with her. He was knowing that she is minor and inspite of that he married with her and sexually assaulted her, which shows involvement of the applicant in the crime. Considering the allegations against the applicant, his custodial interrogation is required and requested to reject the application.

5. I have heard all the learned counsel. Perused the F.I.R. and the police papers produced on record. The allegations against the applicant are that he abducted the prosecutrix from her school, performed marriage with her and sexually assaulted her when she is minor. There is four months delay in lodging the F.I.R. The prosecutrix in her statement under Section 164 of Cr.P.C. has stated that the applicant is her paternal aunt's son and accused No.1 is her paternal aunt. She stays in her house her own volition. The applicant has not performed marriage with her nor she was sexually assaulted by the applicant. She has refused for medical examination. Considering these facts, the custodial interrogation of the applicant is not required and I pass the following order :-

ORDER

(i) The application is allowed.

(ii) The interim anticipatory bail granted to the applicant vide order dated 22.08.2024 stands confirmed on the same terms and conditions.

6. Since Mr. Yogesh H. Lagad, the learned counsel is appointed to represent respondent No.3, his legal fees and expenses is quantified at Rs.5000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(SHIVKUMAR DIGE, J.)

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