



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3466 OF 2024**

Dr. Santosh Ganpat Pawar ... Applicant
versus
State of Maharashtra ... Respondent

Mr. Niteen Pradhan with Mr. Shahren Pradhan for Applicant.
Mr. Y.M.Nakhawa, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 27 JANUARY 2025

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.278 of 2019 registered with Nalasopara Police Station for the offences punishable under Sections 363, 370(5) and 372 read with Section 34 of the Indian Penal Code, 1860.
3. On 8 January 2025, when the application was listed before the Court, this Court was persuaded to grant interim bail to the applicant observing, inter alia, as under :

“3. At the outset, the learned Counsel for the applicant submits that the co-accused have been granted pre-arrest bail by this Court. The complicity of the applicant has allegedly emerged during the course of investigation. Attention of the Court was invited to the statement of Yogesh More, the then PSI, who states that it transpired during the course of interrogation of the co-accused that the new born child was delivered to the applicant and Neelam Vishwakarma, the co-

accused, who has been released on bail. The learned Counsel further submitted that the statements of those co-accused were initially recorded as witnesses before the learned Magistrate under Section 164 of the Code of Criminal Procedure, 1973 and in those statements, no such role has been attributed. Eventually, those persons have been arraigned as accused.

4. Prima facie, it appear that the complicity of the applicant hinges upon the statements which were made by the co-accused in the presence of the police. Apart from the said statements, there does not appear any material to implicate the applicant in the alleged offence. In these circumstances, the liberty of the applicant deserves to be protected while directing him to join in the investigation.”

4. Mr. Pradhan, learned Counsel for the Applicant, submitted that, pursuant to the aforesaid order, the applicant has appeared before the Investigating Officer and cooperated with the investigation. Apart from the alleged statement of the co-accused, on the basis of which Mr. Yogesh More, then PSI attached to Nalasopara Police Station, has stated that the investigation revealed the complicity of the applicant, there is no material to connect the applicant with the alleged offences. Since the investigation is complete and the chargesheet has already been lodged, at this stage, the custodial interrogation of the applicant is not warranted.

5. Mr. Nakhawa, learned APP, resisted the prayer for pre-arrest bail. Attention of the Court was invited to the remand report lodged before the learned Magistrate on 15 July 2023, wherein it was stated that the involvement

of the applicant in the child trafficking has emerged during the course of investigation. Learned APP also pressed into service the entries made in the station diary about the statement made by the co-accused Rupali Nagpal implicating the applicant.

6. I have perused the statement of Rupali Nagpal recorded under Section 161 of the Code and its gist extracted in the station diary. As noted in the aforesaid order dated 8 January 2025, prima facie, the complicity of the applicant hinges upon the statements which were made by the co-accused in the presence of the police. In contrast, the statements of the said persons recorded under Section 164 of the Code (before they came to be arraigned as an accused) are bereft of any incriminating material against the applicant. The statement of Mr. Yogesh More, the then PSI attached to Nalasopara Police Station, prima facie, appears to suffer from the same infirmity as it draws support from the statements of the co-accused. Therefore, in my view, a strong prima facie case for exercise of discretion in favour of the applicant is made out.

7. The applicant appears to have roots in society. Possibility of tampering with evidence and fleeing away from justice appears to be remote. I am, therefore, impelled to make the order of interim bail absolute.

8. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The order of Interim bail dated 8 January 2025 is made absolute on the terms and conditions incorporated therein.
- (iii) In addition, the applicant shall appear before the IO as and when directed and shall regularly attend the proceedings before the jurisdictional Court.
- (iv) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail.

Application disposed.

(N.J.JAMADAR, J.)