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

**ANTICIPATORY BAIL APPLICATION (ST) NO.2676 OF 2020**

Ezzakk Shashikumar Naik .. Applicant  
versus  
The State of Maharashtra .. Respondent  
...

Mr.Ashok Tajane for the Applicant.  
Mr.P.H.Gaikwad, APP for the State.

**CORAM: BHARATI DANGRE, J.  
DATED : 7<sup>th</sup> OCTOBER, 2020**

**P.C:-**

1. By the present application, the applicant seek his release in anticipation of his arrest in connection with FIR lodged against him with Rajgad Police Station, Taluka Bhor, District Pune vide C.R.No.523 of 2020. The said C.R. invoke Sections 376 and 354 of IPC alongwith Section 12 of POCSO Act, 2012.

2. The applicant, a sexagenarian, is working with the Vangelical Alliance Ministries Trust, Nashik, a Public Charitable Trust. There is an existing dispute of the Trust with one expelled trustee, who was charged with commission of fraud and illegal activities and an restraint order has been passed against him in the past. The submission of the applicant is, the present FIR is a counter attack to the said action against him and the complainant

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has been projected for levelling the allegations of rape against the applicant. It would be therefore necessary to examine the allegations in the complaint filed by the prosecutrix, based on which the subject FIR has been registered.

3. The prosecutrix has lodged a complaint on 27<sup>th</sup> August, 2020 with Rajgad Police Station. The complaint is against one person named Naik, without giving any other details. The prosecutrix allege that she is resident of Mangewadi and is residing with her minor daughter and sister at the given address. She is engaged in petty house hold work in the adjoining area and is residing separately from her husband for last five years. She refers to an incident, which took place before two and half years, in the month of May or June 2018, when she was in search of work and she came to know that in a Girls' School in Khed Shivapur, there was a need of a staff for cleaning purposes. She approached the Mission School and there a man with mustache was sitting. When she pleaded with him to engage her, he informed her that there is no vacancy, but assured that since one of the employee is likely to be ousted, she should come after 2-3 days. She then gathered that the name of the person to whom she has spoken was Shri Naik. After two days, she again visited Mission School and met Naik sir, who asked her to come after a week. She again approached after a week and was informed that there is no vacancy. The complainant alleged that though she visited the school on 2-3 occasions in the month, she was not

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offered any work. After some days, she again visited the school and Mr.Naik offered her work and told her that she would get 20,000/- to 25,000/- for the said work, but she must act as per his instructions. On this assurance, she went to the school and spoke to Mr.Naik, who is reported to have stated that she will be given work, but for that purpose, the complainant would have to establish physical intimacy with him and she will have to be at his beck and call. Thereafter, it is stated that he took her to one room, which was located at the back side of the building and he indulged into sexual intercourse. He thereafter said that he would engage her and pay an amount of Rs.22,000/- to 25,000/- since she had pleased him. She was asked to come back after two-three days. The incident was repeated and the allegation is that on the assurance that she would be offered some job, Mr.Naik (the applicant) had compelled her to establish physical relationship. One more time, the incident was repeated. Then, she said that on one occasion, her sister's daughter Reshma aged 14 years had accompanied her to the school when she went to meet the applicant and the minor girl complained to her that an aged person whom she pointed out as Mr.Naik had hugged her.

4. The complaint also explained delay in lodging the complaint and the prosecutrix has stated that she was helpless and since Mr.Naik did not offer her job inspite of his assurance, she approached a social worker and she showed her the way to the police station and, therefore, she has reported the incident.

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5. Perusal of the FIR would clearly reveal that there are no details about any date and time of the incident. Vaguely the incident is referred to have taken place in the month of May/June, 2018, but without any specific date or time. The complaint, which refers to four distinct occasions are again without any date and time. *Prima facie*, the justification given by the complainant, is a feeble attempt to explain the delay. The complainant is a lady, aged 37 years. The applicant is aged 63 years. The allegations under the POCSO Act in respect of the misbehaviour with the niece of the complainant also lack in details about the date and time and is being reported after two and half years.

6. The delay in lodging the complaint, at the time of trial may not be considered as fatal and the prosecutrix may come up with appropriate explanation at that time, but at present, proceeding on the basis of the complaint and the version contained therein, the custodial interrogation of the applicant, in my considered opinion, is not necessary. The applicant is a responsible person and is resident of the address given in the application and is working with the Public Charitable trust as a Manager. He has roots in the society and his chances of fleeing the course of justice are minimal. Subject to the stipulation that the applicant will co-operate with the investigation and would attend the police station as and when called for, in the wake of vague allegations contained in the complaint, he is entitled for being

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released on bail in anticipation of his arrest. The applicant has no criminal antecedents and he is ready to co-operate with the investigation. Hence, the following order.

**: ORDER :**

- (a) In the event of his arrest in C.R.No.523 of 2020 registered with Rajgad Police Station, the applicant-Ezzakk Shashikumar Naik shall be released on bail on furnishing P.R.Bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant will report to the police station as and when called for till filing of the charge-sheet.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

7. The application is allowed in the aforestated terms.

**SMT. BHARATI DANGRE, J**