

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1445 OF 2015

Tulshiram s/o Uttam Rathod & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

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Mr. S.J.Salunke, Advocate for Applicants.

Mr. M.M.Nerlikar,A.P.P. for R- 1 State.

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CORAM : V.M.DESHPANDE, J.

DATE : 31st MARCH, 2015

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PER COURT :

1. The applicants are before this Court since they are apprehending their arrest in connection with Crime No. 32/2015 for the offences punishable u/s 363, 366, 366-A, 341, 376, 120 (B) of the Indian Penal Code, u/s 4 of the Protection of Children from Sexual Offences Act and u/s 9, 10, 11 of Protection of Child Marriage Act registered with Police Station Ambad, district Jalna.

2. Heard Mr. S.J.Salunke, learned Counsel for the applicants and Mr. M.M.Nerlikar, the learned A.P.P. for the respondent No. 1 – State. Learned A.P.P. has also made

available investigation papers for perusal.

3. The F.I.R. is lodged by the prosecutrix on 27/02/2015. From the F.I.R. and also from the other papers available in the investigation papers, it is clear that none of the present applicants ARE responsible for the offences u/s 363, 366, 366-A, 341, 376, 120 (B) of the Indian Penal Code, u/s 4 of the Protection of Children from Sexual Offences Act and u/s 9, 10, 11 of Protection of Child Marriage Act, since all the allegations are against accused Vikas, who is already in jail. There is no material in the investigation papers that any of the present applicant has enticed the prosecutrix and/or they have played any active role for removing the prosecutrix from the lawful custody of her guardian.

4. At the most, the entire allegations are taken on its face value against the present applicants, then it would reflect that they have attended the marriage ceremony between prosecutrix and accused Vikas in one Jambuwnt Temple and have given shelter to accused Vikas and the prosecutrix.

5. It is to be noted that the applicant Nos. 3 to 5 dropped prosecutrix to her parents' house on 24/02/2015. However, the F.I.R. is lodged belatedly on 27/02/2015 and prima facie there is no explanation for the said delay.

6. From the investigation papers, it is clear that the Investigating Officer has recorded the statement of the prosecutrix, her all relatives and also the persons who are

residents of Rahuwadi, Ramnagar Tanda and Ukkadgaon Tanda. The investigation, it appears that, is on the verge of completion, leaving only the act of filing charge sheet in the Court of law.

7. From the investigation papers, it is clear that the custodial presence of the present applicants is not at all required for further investigation.

8. Further, it is to be noted that this Court has granted ad-interim anticipatory bail in favour of the present applicants on 19/03/2015 with certain conditions. The applicants have scrupulously followed the condition and it is not the case of the prosecution that during this period, the applicants have mis-used the liberty granted to them.

9. Hence, I pass the following order :

(i) The present Criminal Application is hereby allowed.

(ii) In the event of their arrest in connection with Crime No. 32/2015 for the offences punishable u/s 363, 366, 366-A, 341, 376, 120 (B) of the Indian Penal Code, u/s 4 of the Protection of Children from Sexual Offences Act and u/s 9, 10, 11 of Protection of Child Marriage Act registered with Police Station Ambad, district Jalna, applicant Nos. 1 to 5 be

released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety of like amount by each of them.

(iii) Applicant Nos. 1, 2 and 4 shall attend Police Station Ambad, district Jalna twice a week and preferably on every Sunday and Friday between 3.00 p.m. and 4.00 p.m. till the charge sheet is filed.

(iv) The applicants shall not tamper with the prosecution case nor shall cause to extend any threats to the prosecutrix or her family members.

(v) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]