

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1333 OF 2015

Vinayak Pralhad Virbhadra .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.Niteen Pradhan, Senior Counsel with
Mrs.S.D.Khot, Advocate, for the Petitioner
Ms Veera Shinde, APP, for the Respondent – State
in ABA No.1332 of 2015
Mrs.P.P.Shinde, APP, for the Respondent – State
in ABA No.1333 of 2015

CORAM : REVATI MOHITE DERE, J.

DATE : 07.09.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks pre-arrest bail in connection with C.R.No.
I-296 of 2015 registered with the Tulinj Police
Station, Nalasopara, District-Palghar, for the
alleged offences punishable under Sections

376(2)(b)(i)(k)(f) of the Indian Penal Code, 1870 and under Sections 5, 8, 9(m)(u)(o) of the Protection of Children from Sexual Offences Act, 2012.

3. The applicant is working as a drawing teacher in the secondary section of the Aloysius school, at Nalasopara. The incident in question is alleged to have taken place some time on 08.07.2015 and the FIR is lodged on 11.07.2015. According to the complainant-victim girl, aged 4 years, one aunty would take her to one sir in his office and that the said sir would touch her private parts inappropriately. She has stated in the said complaint that she does not know the name of the aunty nor does she know the name of the sir. She has stated that the aunty looks like a tiger and the sir also looked like a tiger and that he was fat with a big belly and had no moustache/beard. In view of the statement

of the complainant – victim girl, the aforesaid FIR came to be registered alleging the aforesaid offences.

4. Learned Senior Counsel submitted that the said statement of the complainant which is treated as an FIR, does not in anyway show the complicity of the applicant. He submits that on 08.07.2015, the victim girl had not identified any person; on 09.07.2015, the entire staff of the said school was called except the applicant, as he was on leave at the relevant time and that the victim girl had identified two Class IV employees Sangita and Sunita. He submitted that the applicant, the drawing teacher was not in the school at the relevant time, and was in another school. He submitted that the applicant was called by the police and was in the police station from 11.07.2015 to 16.07.2015, however, he was allowed to leave on 16.07.2015, as no

material was found as against him. He submits that the applicant is not concerned with the alleged offences and with the allegations made and that it appears to be a case of mistaken identity. He submits that there is dispute between the School Management and the parents over fee hike and hence the possibility of false implication cannot be ruled out. He submits that the applicant has an unblemished record/career as a teacher. Learned Senior Counsel for the applicant submits that the features of the applicant are distinct and different from the description given by the victim girl of the 'sir'. He submitted that it appears that only on the basis of photo identification, (an old photograph) done much later, that the present applicant has been implicated in the present case.

5. Learned APP submitted that although the victim girl had not disclosed the name of the applicant in the FIR, the applicant has been identified by the victim on the basis of his old photograph.

6. Perused the papers, including the statements of the victim girl and boy and statements of the parents. It appears that the name of the applicant has not been mentioned by the victim girl in the FIR, as being the 'Sir', who inappropriately touched her. The applicant was in the custody of the police from 11.07.2015 to 16.07.2015, however, none of the victims have identified him. The applicant was identified subsequently, only on the basis of an old photograph. Prima facie, it also appears from the documents, that the applicant was in another school at the relevant time.

7. Considering the nature of allegations and the material on record, the applicant is granted pre-arrest bail on the following terms & conditions:

ORDER

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.15,000/- each with one or two solvent sureties in the like amount;

(ii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the said case;

(iii) The applicant shall attend the Tulinj Police Station, Nalasopara, District-Palghar on every Saturday between 10.00 a.m. to 01.00 p.m. till the filing of the charge sheet.

8. The Application is allowed in the aforesaid terms and are accordingly disposed of.

9. It is made clear, that the observations made herein are confined to these applications and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.