

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

ANTICIPATORY BAIL APPLICATION NO.1072 OF 2019

Shankar @ Gabrya Pandurang
Sarvade & Anr.

.... Applicants

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Satyavrat Joshi, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.
- PC No.2487 Mr.Arjun, Indapur Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 02nd AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.73/19 registered with Indapur Police Station, Pune, under sections 354, 504, 506 r/w 34 of the Indian Penal Code and under section 8 and 12 of The Protection of Children from Sexual Offences (**POCSO**) Act 2012.
2. The FIR is lodged on 25/01/2019 by the prosecutrix, who was 15 years of age. She has stated that on 23/01/2019 at 10.15 a.m. when she was proceedings towards school, at that

time, Applicant No.1 suddenly came in front of her, held her hand, looked at her with bad intention to outrage her modesty. He was insisting that she should take his mobile. On her refusal, he abused her and went away. On the next day, i.e. on 24/01/2019, in the morning the Applicant No.2 came near her and abused her. Based on these allegations, the FIR is lodged.

3. Heard learned Counsel Mr.Satyavrat Joshi for the Applicant and learned APP Ms.A.A. Takalkar for the State.
4. Learned Counsel Mr.Joshi submitted that the FIR is a result of various complaints lodged by the Applicants against the family of the prosecutrix. He submitted that the prosecutrix is being used by her family members to counter the allegations made by the Applicants and his family. He invited my attention to the complaint dated 25/12/2018 lodged by the wife of the Applicant No.1 who had made allegations against the maternal uncle of the first informant in this case, of commission of rape. That case is still pending. Mr.Joshi thereafter relied on the FIR dated 15/05/2018, filed by the Applicant No.2 against the

mother of the first informant in this case, u/s 342, 324 etc. That case is also pending. He further submitted that as a counter blast to these cases, present false FIR is lodged against the Applicants.

5. Learned APP in response to these submissions opposed the grant of anticipatory bail. He submitted that the minor victim is terrorized by the Applicants and therefore they do not deserve any protection.

6. I have considered these submissions. The perusal of the FIR shows that the Applicant No.2 had not committed any offence either u/s 354 of under the provision of POCSO. At worst he is alleged to have abused the victim. Even against the Applicant No.1, the allegations are that he had held her hand and looked at her with bad intentions. These allegations will have to be considered in the background of the previous enmity between the families. In any case, no serious harm was caused by the Applicants to the victim. The background of history between the families, shows that there is a serious offence registered against the maternal uncle of the victim at the

instance of the Applicant No.1's wife. Therefore at this stage, there is some force in the submissions of Mr.Joshi that there is strong possibility that the Applicants are falsely implicated. Considering all these factors, the custodial interrogation of the Applicant is not necessary. Their custody in this case which appears to be a motivated complaint, will harm their reputation irreparably. In this view of the matter, the Applicants have made out case of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.73/19 registered with Indapur Police Station, Pune, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicants shall not make any efforts to contact the victim.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)