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

ANTICIPATORY BAIL APPLICATION NO. 2068 OF 2018

Sagar Shivram NagarkarApplicant

V/s.

The State of MaharashtraRespondent

**WITH
CRIMINAL BAIL APPLICATION NO. 42 OF 2019**

Sankesh @ Sanket Dattaram GhanekarApplicant

V/s.

The State of MaharashtraRespondent

**WITH
CRIMINAL BAIL APPLICATION NO. 43 OF 2019**

Ajay Ramesh SakpalApplicant

V/s.

The State of MaharashtraRespondent

**WITH
CRIMINAL BAIL APPLICATION NO. 3308 OF 2018**

Nilesh Prakash DalviApplicant

V/s.

The State of MaharashtraRespondent

**WITH
CRIMINAL BAIL APPLICATION NO. 3301 OF 2018**

Manik @ Tushar Shantaram JadhavApplicant

V/s.

The State of MaharashtraRespondent

**WITH
CRIMINAL BAIL APPLICATION NO. 2798 OF 2018**

Mohit Suhas Gujar @ ButalaApplicant

V/s.

The State of MaharashtraRespondent

Mr. Jayant J. Bardeskar for the applicant in ABA 2068/2018

Mr. Umesh Mankapure for the applicant in BA 42/19, 43/19 & 2798/18.

Mr. Harshad Sathe & Saurabh Butla for the applicant in BA 3301/2018

Mr. Rajiv Patil, Senior Advocate i/b Onkar Warange for the applicant in BA 3308/2018

Smt. J. S. Lohokare APP for the State in ABA 2068/2018, BA 42/19, 43/19, 3301/18, 2798/18.

Smt. Rutuja Ambekar APP for the State in BA 3308/2018

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 18, 2019.

P.C.

Applicant in ABA No. 2068/18 is seeking pre-arrest bail and applicants in BA nos. 42/19, 43/19, 3308/18, 3301/18 and 2798/18 are seeking regular bail in Crime No. 54/2018 registered with Poladpur Police Station, Dist. Raigad for offence punishable under sections 376, 506 of the Indian Penal Code and Section 3 & 4 of the Protection of Children from Sexual Offences Act, 2012.

2 Applicant Sankesh @ Sanket Ghanekar arrested on 23/09/2018, Ajay Sakpal arrested on 08/10/2018, Nilesh Dalvi arrested on 10/08/2018, Manik @ Tushar Jadhav arrested on 23/09/2018 and Mohit Gujar @ Butala arrested on 23/08/2018.

3 Investigation in the matter is completed and the charge-sheet is filed.

4 The allegations are of commission of offence under the provisions of Protection of Children from Sexual Offences Act, 2012 particularly section 3 & 4 of the Act as there appears to be penetrative sex.

5 During investigation, prosecution has conducted DNA test and it is found that DNA of the applicant Ajay Sakpal matches with that of girl child born to the victim. As such, *prima facie* it can be inferred that he is biological father of the child.

6 In the aforesaid background, the statement of the victim girl, her mother if appreciated, the victim girl remained in contact with all the aforesaid accused persons from time to time. The statement of the mother in categorical terms speaks of deliberation with the Sarpanch before lodging of F.I.R.

7 Each of the applicant before this Court have volunteered that they shall deposit amount of Rs. 1,50,000/- each in this Court through demand draft in the name of Registrar, Appellate Side, High Court, Bombay so as to demonstrate their bonafides by providing maintenance to the new born child and also for unmarried mother. The statement is accepted. Let each of the applicant deposit the said amount of Rs. 1,50,000/- within period of 3 days from today.

8 The Registrar, Appellate Side shall make over the said amount to the Special Court taking up the POCSO matters particularly dealing with the trial in Crime No. 54/2018. The said Special Court shall deal with the said amount as it shall deem appropriate so as to cater the need of the child and mother.

9 It will be appropriate in my opinion to make the said amount in fixed deposit. Let the interest accrued thereon be quarterly or monthly paid to child and the mother. However, it is kept open for the learned Special Judge to take appropriate decision in the prevailing facts and circumstances before it.

10 So far as the merits of the case is concerned, as narrated herein above, apart from unexplained delay, F.I.R. came to be lodged after having deliberation with the Sarpanch of the village.

11 The very conduct of the lodging of the F.I.R. that too at a belated stage when the victim girl was carrying pregnancy of 7

months speaks sufficient about the very conduct of the parties to the offence.

12 In my opinion, since the investigation in the matter is already over, as the DNA report has certified that accused Ajay Sakpal is biological father of the child born, all these applications for regular bail need to be allowed.

(A) Applicants in BA nos. 42/19, 43/19, 3308/18, 3301/18 and 2798/18 in Crime No. 54/2018 be released on bail in Crime No. 54/2018 registered with Poladpur Police Station, Dist. Raigad on executing P.R. bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount.

(B) Applicants shall not influence witnesses or tamper with evidence.

13 So far as the application of Sagar Nagarkar i.e. ABA No. 2068/18 is concerned, the Ad-interim protection granted vide order dated 29/10/2018 stands confirmed on same terms, subject to the condition that he shall appear before Investigating Officer on every

Tuesday and Friday w.e.f. 26/02/2019 for a period of 4 weeks. He shall also cooperate with the Investigating Officer, if required in drawing blood samples.

14 All applications stand disposed of.

[NITIN W. SAMBRE, J.]