

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

ANTICIPATORY BAIL APPLICATION NO.124 OF 2021

Amol @ Mamu s/o Dilip Patole	... Applicant
Versus	
The State of Maharashtra and another	... Respondents

....

Mr. Swapnil Patunkar, Advocate i/b J. P. Legal Associates for the applicant

Mr. P. G. Borade, APP for the respondents-State

....

CORAM : R. G. AVACHAT, J.

DATED : 19th MARCH, 2021

PER COURT :-

. This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No.0838/2020, registered at Karjit Police Station, District Ahmednagar, for the offences punishable under Sections 366-A, 511, 341, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 8 and 17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard. Perused the First Information Report (FIR).

The FIR has been lodged by 16 years old victim. The applicant is the step-brother of the informant. It is alleged in the FIR that the father of the informant passed away seven years before the FIR was lodged. The informant has five sisters. Her real maternal aunt is her step-mother. Since the death of the father, the step-mother attempted to force the informant into prostitution. Her maternal uncle, namely, Tanaji Randive would assist the informant's step-mother in attempting to force her into prostitution. On the informant's reluctance, they would beat her up. The informant, therefore, started residing at the house of her step-sister Vanita at Nigdi, in Pune. The step-mother, the maternal uncle and his son Aadesh, again started behaving with her as before. The informant, after having stayed for two years at the house of her step-sister Vanita, shifted to village Kuldharan, taluka Karjat. It is further alleged that, at that place also the aforesaid persons started visiting her. The informant, therefore, started residing at the house of her another real sister Vinaya at Jalalpur, taluka Karjat. There also, her step-sister, the applicant, maternal uncle Tanaji, his son Aadesh, sisters Vanita and Suvarna and one Ravindra Kamble, harassed the

informant. She, therefore, consumed insecticide. After having recovered, she lodged the FIR.

3. Learned Advocate for the applicant would submit that the allegations against the applicant are general in nature. No overt act has been attributed to him. He is not alleged to have attempted to force the informant into prostitution. He, therefore, urged for grant of the application.

4. Learned APP would, on the other hand, urge for rejection of the application considering the nature of the offence and age of the victim.

5. It is true that the victim is a minor. She appears to have experienced ordeal at the behest of her near ones. The allegations in the FIR are to the effect that the informant's step-mother, her maternal uncle and his son attempted to force her into prostitution. None of these three are before this Court. As against the applicant, it has been alleged that while the informant was staying at the house of the real sister Vinaya, the applicant and other six came there and subjected her to mental ill-treatment. She, therefore, consumed insecticide. The FIR has been lodged 21 days after the informant

consumed insecticide and long after the alleged ill-treatment by the applicant and others. It is reiterated that the applicant is alleged to have subjected the informant to mental ill-treatment. He is not alleged to have attempted to force her into prostitution.

6. True, the informant's statement has been recorded under Section 164 of the Code of Criminal Procedure, wherein it has been alleged that the applicant and others had attempted to force her into prostitution while she was staying at village Fondshiras. This statement has been recorded on 09.12.2020 i.e. after little over 2½ months of lodging of the FIR. Considering the inconsistency between the FIR and statement under Section 164 of the Code of Criminal Procedure, so far as regards allegations against the applicant is concerned, I am inclined to grant him anticipatory bail. Hence, following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant in connection with Crime No.0838/2020, registered at Karjit Police Station, District Ahmednagar, for the offences punishable under Sections 366-A, 511, 341, 504,

506 read with Section 34 of the Indian Penal Code and under Sections 8 and 17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, he be released on bail on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

- (iii) The applicant shall appear before the investigating officer as and when required.
- (iv) The applicant shall not tamper with the prosecution evidence in any manner.

[R. G. AVACHAT, J.]

SMS