

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

ANTICIPATORY BAIL APPLICATION NO. 514 OF 2021

1. Rajesh @ Sunny S/o Ramkrushna Gaikwad,
Age : 21 years, Occu. Education,
R/o. Ramnagar, in front of Abhay College,
Dhule.
2. Kamlesh S/o Dhanraj Gaikwad,
Age : 21 years, Occu. Education,
R/o. Paldhi Khurd, Taluka Dharangaon,
Dist. Jalgaon.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

.....
Mr. Satej S. Jadhav, Advocate for the applicants
Mr. S. B. Narwade, APP for respondent / State
Mr. Amol S. Sawant, Advocate for respondent No. 2
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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 22nd September, 2021
DATE OF PRONOUNCING THE ORDER : 23rd September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 0183 of 2021, registered with Dhule Taluka Police Station, Dist. Dhule, for the offences punishable under Sections 323, 504, 506, 354A r/w 34 of the Indian

Penal Code, 1860 and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. It is the case of prosecution that on 22.03.2021 at about 11:30 pm, while the informant's daughter (victim) had been to attend the call of nature, the applicant caught hold of her and outraged her modesty. When the informant asked them to leave the victim, they assaulted him by means of kick and fist blows. Informant accordingly lodged the report.

3. Mr. Satej S. Jadhav, learned Counsel for the applicants, submits that the matter has been amicably settled between the parties. Even otherwise, having regard to the nature of allegations, there is nothing to be recovered and in such circumstances, the application deserves to be allowed.

4. Mr. S. B. Narwade, learned APP, on the other hand, fairly submitted that the Investigating Officer has forwarded a report in the matter stating therein that he had enquired with the informant and the victim and found that they have settled the matter with the applicants. However, the learned APP opposed the application by contending that the victim being minor and having regard to the nature of allegations, the application should not be allowed.

5. Mr. Amol S. Sawant, learned Counsel for respondent No. 2, supports the statement made by learned Counsel for the applicants that the matter has been amicably settled between the parties.

6. Perused the letter dated 07.09.2021 bearing Outward No. 5603/2021, written by Investigating Officer to APP. It appears from the said letter that the Investigating Officer had enquired with the informant and the victim and she was told that they have compromised the matter with the applicants without any pressure. Thus, apparently, it is quite clear that the parties have arrived at the settlement. The said letter is taken on record and marked as "X" for the purpose of identification.

7. Now, if it is to be presumed that there is no such settlement, then in my considered opinion, the FIR itself is full of vagueness and does not give any insight as to the necessary ingredients of the alleged offence. Assuming for the sake of argument that there are some ingredients, in that eventuality also, this is not a kind of case where the custodial interrogation of the applicants is necessary. For this reason also, the application deserves consideration.

8. For the aforesaid reasons, I am inclined to allow the application. Hence, the following order.

ORDER

- i. The application is allowed.
- ii. In the event of arrest of the applicants, namely, Rajesh @ Sunny Ramkrushna Gaikwad and Kamlesh Dhanraj Gaikwad in connection with Crime No. 0183 of 2021, registered with Dhule Taluka Police Station, Dist. Dhule, for the offences punishable under Sections 323, 504, 506, 354A r/w 34 of the Indian Penal Code, 1860 and Sections 8, 12 of the Protection of Children from Sexual Offences Act, 2012, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.15,000/- [Rupees Fifteen thousand] each, with one or two solvent sureties in the like amount.

[V. G. BISHT]
JUDGE