

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

ANTICIPATORY BAIL APPLICATION NO. 746 OF 2021

Santosh s/o Dattu Palve,
Age : 19 years, Occu. Education,
R/o. Udarmal, Tq. Nagar, Dist. Ahmednagar.

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr. Rahul R. Karpe, Advocate for the applicant
Mrs. Vaishali S. Choudhari, APP for respondent / State
Mr. D. M. Hange, Advocate for respondent No. 2

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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 08th September, 2021
DATE OF PRONOUNCING THE ORDER : 15th September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0373 of 2021, registered with M.I.D.C. Police Station, District Ahmednagar, for the offences punishable under Sections 354, 354-A, 354-D, 324, 323, 427 r/w 34 of the Indian Penal Code, 1860 and under Section 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Informant, applicant and other accused are the neighbours. It is alleged that since last six months prior to lodging of the FIR in question, applicant and his brother Ranjit Palve (accused)

used to follow informant's daughter, aged 16 years. On 07.06.2021, at 02:00 pm, informant's said daughter complained to informant that applicant had asked her to accompany him to sleep with him. When informant confronted applicant, he assaulted on the knee of the informant. His brother Ranjit and father Dattu and mother Zambu also came there. Accused Ranjit also assaulted him by kick blows and accused Dattu on his back and neck by means of a stick. Even applicant took a bite on the right arm of the informant. It is further alleged that the applicant also gave a blow of iron rod on the leg of his said daughter, dragged her by her hair, tore her clothes, gave a kick blow on her private part and also pressed her breast. The other accused also indulged in beating. The informant accordingly lodged the report.

3. Mr. Rahul R. Karpe, learned Counsel for the applicant, submits that because of village politics, the applicant has been falsely implicated. Moreover, the mother of applicant has filed an FIR on 07.06.2021 against the informant and others for offences under Sections 324, 323, 504, 506, 509 r/w 34 of the Indian Penal Code and it is only after filing of this FIR, the FIR in question came to be lodged. It is pertinent to note that the FIR filed by mother of applicant was filed at 08:15 pm whereas; the FIR in question came to be filed at 11:19 pm on the same day. So also, according to learned

Counsel, other accused namely, Ranjit and Dattu have been granted regular bail by learned Additional Sessions Judge, Ahmednagar. Recovery of alleged weapon in the present crime has also been done by the Investigating Officer. In such circumstances, there is no necessity of custodial interrogation of the present applicant and application deserves to be allowed, argued learned Counsel.

4. Mrs. Vaishali S Choudhari, learned APP, on the other hand, would oppose the submissions by contending that there is specific allegation against the applicant. There are eye-witnesses to support the FIR and, therefore, custodial interrogation is very much necessary.

5. Mr. D. M. Hange, learned Counsel for respondent no. 2—informant, supported the submissions of learned APP and would submit that the victim at the relevant time was 16 years of age. The informant's daughter is school going girl and there is every possibility of threat to her safety and security at the hands of the applicant, if he is granted the benefit of pre-arrest bail. In such circumstances, the present application need not be considered, argued learned Counsel.

6. First of all, it may be noted that there is no dispute to the fact that the FIR filed by the mother of the applicant is prior in point

of time than the FIR in question registered by the informant. The other accused namely Ranjit and Dattu have already been granted regular bail by the learned trial Court.

7. A careful perusal of subject FIR would show that the informant was assaulted by the applicant on his knee by means of iron rod, had taken a tooth bite and his daughter (victim) was also assaulted by means of iron rod and was subjected to molestation. However, the medical certificate in respect of the informant issued by Dr. Vikhe Patil Memorial Hospital shows that there were abrasion on the left cheek and right arm with contusion over left side of neck and swelling over the left shoulder and all these were within normal limits. Similarly, the certificate pertaining to the victim daughter of the informant shows as there were complaints of pain over the chest from injuries over the chest and as also pain on both knees, the conservative treatment was given and patient was then sent to home.

8. In the light of medical evidence, *prima facie*, any kind of custodial interrogation is unwarranted. Having regard to the facts and circumstances of the case, in my considered opinion, the custody of the applicant is not imperative.

9. As far as apprehension of learned counsel for respondent no. 2 that there is possibility of tampering or threat to the victim as
SG Punde, PA

she is school going girl is concerned, the care can be taken by imposing necessary conditions.

10. In view of above, I am inclined to extend the benefit of pre-arrest bail in favour of applicant. Hence, the following order.

ORDER

- i] In the event of arrest of applicant herein, namely, Santosh Dattu Palve in connection with Crime No. 0373 of 2021, registered with M.I.D.C. Police Station, District Ahmednagar, for the offences punishable under Sections 354, 354-A, 354-D, 324, 323, 427 r/w 34 of the Indian Penal Code, 1860 and under Section 12 of the Protection of Children from Sexual Offences Act, 2012, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty Thousand only], with one or two solvent sureties in the like amount.
- ii] The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.
- iii] The applicant shall not tamper with the prosecution evidence in any manner.

iv] The applicant shall not indulge in similar kind of criminal activity.

11. The application is disposed of in aforesaid terms.

[V. G. BISHT]
JUDGE