

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

19 ANTICIPATORY BAIL APPLICATION NO.957 OF 2021

Rajendra s/o Bapu Jadhav,
Age 28 years, Occ. Labour,
R/o. Chavanda Nagar, Ahmedpur,
Tq. Ahmedpur Dist. Latur.

VERSUS

The State of Maharashtra and another

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Mr. Hamzakhan I.Pathan, Advocate for the applicant
Mr. V.S.Badakh, APP for the respondent No.1-State
Mr. M.B.Sandanshiv, Advocate for the respondent No.2 (appointed)

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CORAM : PRAKASH D. NAIK, J.
DATE : 4th OCTOBER, 2021

PER COURT :

1] This is an application for pre-arrest bail in CR No.0286 of 2021 registered with Ahmedpur Police Station, Dist.Latur for the offences punishable under sections 354, 354(D), 306, 452, 323, 504 read with Section 34 of the Indian Penal Code (for short, 'IPC') and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO').

2] The first information report was lodged on 25.06.2021 by the father of the victim. It is alleged that the co-accused was harassing the daughter of the complainant. She brought it to the notice of the

complainant on 23.06.2021. The co-accused and the applicant entered into the house of the complainant. They threatened and abused the complainant. The victim was present in the house. She was aged of 13 years. It is alleged that the accused had threatened the complainant that they would kidnap the victim girl. The role attributed to the applicant is that he had slapped the complainant.

3] The co-accused Sunil Balu Hulgunde has been arrested and granted regular bail. The case of the prosecution that he is a person who was causing harassment to the victim.

4] Learned Advocate for the applicant submits that considering the overt act attributed to the applicant, Section 306 of the IPC cannot be attracted. He has not been attributed any role substantiating the charge under Section 354 and 354(D) of the IPC or the provisions of POCSO Act. The requirements to constitute the offence under Section 306 of the IPC are absent.

5] Learned APP submits that the victim was a minor girl, aged 13 years. The incident occurred in her presence. Immediately after the incident, she committed suicide.

6] Learned Advocate for the complainant reiterated the submissions of the learned APP. He submitted that there is active participation of the applicant in the offence.

7] On perusal of the First Information Report, it is apparent that the case of the prosecution is that the accused No.1 was stalking the victim. That was objected by complainant and his family. It is in that context, that the accused entered into the house of the complainant. There was an incident of threat and abuses. The overt act attributed to applicant is that he had slapped the complainant. It is debatable whether Section 306 of the IPC can be applied to applicant. Considering factual matrix of this matter, the applicant need not be subjected to custodial interrogation. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application No. 957 of 2021 is allowed.
- (ii) In the event of arrest of applicant in CR No.o286 of 2021 registered with Ahmedpur Police Station, Dist.Latur, the applicant be released on bail on his executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report Investigating Officer on 11th, 12th and 13th October, 2021 between 11.00 am and 01.00 pm and thereafter, as and when called for, till filing of the charge-sheet.
- (iv) The applicant shall stay away from the vicinity of the complainant, till further orders.
- (v) The Application stands disposed of.
- (vi) The Registry shall pay the requisite professional fees to the appointed Advocate.

(PRAKASH D. NAIK, J.)