

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1789 OF 2021**

- 1) Prakash J. Mane
- 2) Rohidas J. Mane
- 3) Komal P. Mane
- 4) Ailaji Mane
- 5) Ganesh Mane
- 6) Sumit Mane

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr.D. S. Manerkar i/b. M/s.D. S. Manerkar and Associates for Applicants.

Smt.Veera Shinde, A.P.P. for Respondent-State.

Mr.D.D. Dethe, PSI, Indapur Police Station, Pune (Rural), is present.

CORAM : A.S. GADKARI, J.

DATE : 7th September, 2021.

PC. :

1. This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 519 of 2021, dated 2nd June, 2021, under Sections 452, 327, 324, 323, 504, 506, 143, 147, 149, 269, 270 of Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (*POCSO Act*) and Section 51 of Disaster Management Act, 2005 and Sections 3 and 4 of Epidemic Diseases Act, 1897, registered with Indapur Police Station, District Pune (Rural).

2. Heard Mr.Manerkar, learned counsel for the Applicants and Smt.Shinde, learned A.P.P for the Respondent-State. Perused record of investigation.

3. The First Information Report is lodged by Smt.Ambika Salunkhe. It is the case of prosecution that, on 1st June, 2021, after the Revenue Authorities visited the Survey No.116 and 117 of village Redagaon, Taluka Indapur, Dist. Pune, at about 12.00 p.m. for inspection of pathway, the Applicants went to the house of informant at about 1.20 p.m. and questioned that, where is her brother Kailas Pawar. The informant told that, her brother has gone to Indapur. After sometime, the Applicants again entered into her house by committing criminal trespass and assaulted informant with a stick. It is further alleged that, when the daughter of informant, who is a minor, tried to intervene and separate the said assault, the Applicant Nos.5 and 6 inappropriately touched her and outraged her modesty. It is further alleged that, in the said fight, the Applicant No.1 Prakash J. Mane snatched a Mangalsutra from the neck of the informant. In this brief premise, the present crime is registered.

4. Record indicates that, Applicant No.3 Ms. Komal Prakash Mane has also lodged a crime bearing No.516 of 2021 with the same police station on 1st June, 2021, at about 8.13 p.m., for the same incident. In the crime registered by the Applicant No.3, the informant in the present crime, i.e. Smt.

Ambika Salunkhe is Accused No.3.

5. It is thus clear that, there is a case and cross case arising out of the same incident. Record further indicates that, there is a long standing dispute over the pathway leading to the lands of informant herein, between the family of Applicants and the family of informant, i.e. Smt.Ambika Salunkhe. The Applicant No.3 herein Ms. Komal Prakash Mane had filed an Application dated 23rd July, 2020 with the Tahsildar Indapur, District Pune for construction of permanent road. In her Application, she had stated that, on the said pathway, the water gets accumulated and polluted and due to the said polluted water diseases are spread in the village. It *prima facie* appears that, being enraged by the said Application and subsequent visit of Revenue Authorities for inspection of the said pathway, there was dispute between Applicants on one hand and the family members of the informant i.e. Ambika Salunkhe on the other hand, which ultimately lead to the said fight on 1st June, 2021. The allegations against the Applicant Nos.1 to 4 are of assaulting informant with a stick in the said fight and most of the allegations are general in nature.

6. In view thereof, this Court is of the opinion that, the custodial interrogation of Applicants for further investigation of the present crime is not necessary.

7. As far as the Applicant No.5 Ganesh Mane and Applicant No.6

Sumit Mane are concerned, allegations against them are of outraging modesty of the minor daughter of informant which are serious in nature. Police have recorded statement of said prosecutrix (minor) under Section 164 of Cr.P.C. The prosecutrix in unequivocal terms has ascribed role to the Applicant Nos.5 and 6 of outraging her modesty and touching her inappropriately after dragging her aside. The prosecution has therefore applied the provisions of POCSO Act in the present crime.

8. After taking into consideration, the serious allegations against the said Applicant Nos.5 and 6, when this Court expressed its disinclination to grant any relief, the learned counsel, on instructions seeks leave to withdraw the Application of the said Applicant Nos. 5 and 6 with liberty to the said Applicants to surrender before the concerned Magistrate having jurisdiction over Indapur Police Station, Pune (Rural) on or before 11.00 a.m. of 16th September, 2021.

Leave and liberty granted.

It is made clear that, the period to surrender will not be extended on any count.

9. Present Application qua the Applicant Nos.5 and Applicant No.6 is dismissed, as withdrawn with aforesaid liberty.

10. In view of the aforesaid deliberation, Applicant Nos.1 to 4 are granted interim relief on the following terms and conditions:-

Hence, the following Order :-

- (i) In the event of arrest in C.R. No. 519 of 2021, dated 2nd June, 2021, registered with Indapur Police Station, Pune (Rural), the Applicant Nos.1 to 4 shall be released on bail on their furnishing PR. bond in the sum of Rs.10,000/- each with one or two separate local sureties in the like amount.
- (ii) Applicant Nos.1 to 4 shall attend Indapur Police Station, Pune (Rural), on every first Sunday of the month between 10.00 a.m. to 12.00 noon, till filing of the final report by the police under Section 173(2) of Cr.P.C.
- (iii) It is needless to mention that, the concerned Investigating Officer shall not detain Applicant Nos.1 to 4 beyond 12:00 noon on any count.
- (iv) Applicants shall not tamper with the evidence and/or interfere with the process of investigation.
- (v) Application is allowed in the aforesaid terms.

11. All the concerned to act on the basis of an authenticated copy of this Order.

[A.S. GADKARI, J.]