

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1830 of 2021

Sachin Suresh Ombase & Anr	.. Applicants
Versus	
The State of Maharashtra	.. Respondent

...

Mr. Shailesh Kharat for the applicants.
Mr.Jugal Kanani for the respondent no.2.
Mr.A.R. Kapadnis, APP for the State.
API Shri Shashank Kadam from Pimpri Chinchwad police station
present.

CORAM: BHARATI DANGRE, J.
DATED : 17th AUGUST, 2021

P.C:-

1 At the outset, learned counsel for the applicants seek leave to implead the complainant as respondent since the provisions of POCSO are invoked. Necessary amendment should be carried out forthwith.

2 The complainant is represented by the learned counsel Mr.Jugal Kanani and he is desirous of proceeding with the matter.

3 The applicants are two brothers and reside in the vicinity where the complainant reside. The complainant allege

that on 13th May 2021, when she was approaching a medical store, the applicant no.1 started abusing her in filthy language for no reason. When she questioned him, it is alleged that he came closer to her and tore off the apparel which she was wearing and when her daughter arrived at the spot, her Top was also torn by him. The further allegation is when her husband intervened, he was assaulted by applicant no.1 on his right hand by means of an iron rod causing an injury. Applicant no.2 is alleged to have assaulted her daughter and husband by means of a bamboo.

4 The above incident resulted in registration of C.R.No.0350 of 2021 with Pimpri Police Station, thereby invoking Section 354(B), 324, 504 read with Section 34 of the IPC and Section 7 and 8 of the POCSO Act and Section 37(1), 37(2) and Section 135 of the Maharashtra Police Act, 1951.

5 The learned APP has placed on record the Medico Legal Certificate from a private hospital at Pimpri, Pune which record the history of assault. The injury certificate refer to tenderness coupled with swelling and pain on the right fore arm of the injured. He also complain of pain over lower back and left hip joint. Considering the said injury certificate, what has been invoked is Section 324 of the IPC.

6 The invocation of Section 354(B) is qua the complainant and her daughter. Perusal of Section 354-B would make it clear that the act which is punishable under the said Section make it imperative to possess an intention of disrobing or compelling a woman to be naked by use of any criminal force or an assault. *Prima facie*, since the said intention is conspicuously absent, the applicants are entitled for protection. Counsel for the complainant also make a statement that since the family of the applicant and the complainant are residents of the same locality, they have sorted out the differences amongst themselves. Hence, the following order :-

ORDER

- (a) In the event of his arrest, the Applicant no.1 Sachin Ombase and applicant no.2 Amar Suresh Ombase shall be released on bail on furnishing P.R. bond to the extent of Rs.20,000/- each with one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade them from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

- (c) The Applicants shall make themselves available as and when required by the Investigating Officer.

The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J