

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2722 OF 2019

Akshay Ganesh Khandagale	 Applicant
versus	
State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO.280 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.2722 OF 2019**

Ms.Lalita Ravindra Palvi	 Intervenor
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IN THE MATTER BETWEEN :

Akshay Ganesh Khandagale	 Applicant
versus	
State of Maharashtra	 Respondent

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- Ms.Sandhya Mailagir i/b. Anil D. Joshi, Advocate for Applicant.
- Mr.Y.M. Nakhwa, APP for the State/Respondent.
- Mr.Manoj A. Naik, Advocate for Intervenor.

**CORAM : SARANG V. KOTWAL, J.
DATE : 24th SEPTEMBER, 2021**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.576/2019 dated 16/11/2019 registered with Kalyan Police Station, under sections 452, 354, 323, 504 of the Indian Penal Code and under section 8 of Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard Ms.Sandhya Mailagir, learned counsel for the Applicant, Mr.Y.M. Nakhwa, learned APP for the State and Mr.Manoj A. Naik, learned counsel for Intervenor.

3. The FIR is lodged by the victim herself, who was 15 years of age on the date of incident. She has stated in her FIR that on 15/11/2019 she along with her mother and brother had gone to her cousin, who was residing in the neighbourhood. After dinner, the victim alone came home. Others were to follow. When she came home, she saw that the door of the house was open. Light was on. She saw that the Applicant was present near the door. The informant entered her house. The Applicant followed her and switched off the light. The informant called her mother. It is alleged that the informant gagged her mouth and pulled her towards toilet. She tried to escape. He was pulling her towards the toilet outside the house. At that point, the informant's mother came home. She shouted and therefore the Applicant started running away from the house. The informant's

mother stopped him and scuffled with him. He pushed her and went away. On these allegations the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant was granted interim protection by this Court (Coram : Sandeep K. Shinde, J.) vide order dated 12/12/2019. Since then there are no allegations of any other incident against the Applicant. She submitted that even in this case the allegations against the Applicant are false. Charge-sheet is filed. Investigation is over. The Applicant is a young boy of 21 years. His custodial interrogation is not necessary, particularly when the investigation is over. In the charge-sheet, the statements of other witnesses are not consistent with the informant's statement. She submitted that the Applicant's father had lodged NC against the informant's father on 07/09/2019 vide N.C. No.2050/2019 at Kalyan Police Station, u/s 504 and 506 of IPC. She submitted that there was a long standing dispute in respect of a piece of land between two families and therefore the Applicant is implicated falsely on these serious allegations.

5. Learned counsel for the Intervenor submitted that there is possibility of escalation of such offence if the Applicant is granted anticipatory bail. However, he conceded that since the past two years, there has been no incident between the Applicant and the victim. He submitted that the allegations are serious and therefore anticipatory bail should not be granted to the Applicant.
6. Learned APP made submissions on the similar lines as that of the Intervenor. However, he conceded that charge-sheet is filed and the investigation is over. Nothing further remains to be investigated.
7. I have considered these submissions. The narration in the FIR given by the victim is different from the narration of the victim's mother given in her statement. The mother has stated that when she came home, she heard noise from inside the toilet. The door of the toilet was shut. She went there and she herself opened door. At that time, she saw that the Applicant

had caught hold of the victim. He left her and concealed himself in a corner. This incident is totally different from the victim's statement. The victim has not stated that she was taken inside the toilet. Similarly, the mother has not stated that she had heard shouts given by the victim. Therefore at this stage, there is some discrepancy in the version of the witness. However, at this stage, it would not be proper to observe anything further. This issue will have to be decided during the trial. Trial Court shall not be influenced by the observations made in this order.

8. The Applicant is on interim protection for almost two years. There is no further allegation against the Applicant. The Applicant is a young boy. There is history of dispute between the two families. The Applicant's father had given his complaint prior to this alleged incident. Therefore there is possibility of false implication as well. In this view of the matter, custodial interrogation of the Applicant would not be justified. He deserves to be granted protection of anticipatory bail.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.576/2019 registered with Kalyan Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) In view of disposal of Anticipatory Bail Application, Interim Application is also disposed of.
- (iii) Learned Advocate for the Intervenor is directed to remove name of the victim and mother of the victim from the record of the Interim Application. The office is also directed to take steps in that behalf.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)