

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 688 OF 2021

Sagar Kailash Pranjale

..vs..

State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. Katkar, Advocate for applicant.

Shri I.J. Damle, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 25/11/2021.

Heard.

2. In anticipation of arrest in Crime No.1010 of 2021 registered with Khadan Police Station, District Akola for the offence punishable under Sections 354, 354-A, 354-B of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offenses Act, 2012 (POCSO), the applicant is prayed for pre-arrest protection.

3. The bail is primely claimed by submitting that this is a purely case of false implication. In support of said contention, several documents are placed for perusal. The applicant would submit that he is a reputed builder and developer of the vicinity. One Santosh Yadav was extortionist, against whom the applicant and his father have lodged police reports. It is submitted that the informant-lady is in live-in-relationship with Santosh Yadav and thus, at the behest of Santosh Yadav, existing false report has

been lodged which according to him is also an effort of extortion.

4. The non-applicant/State resisted bail by filing reply-in-affidavit. The contents of First Information Report have been stated in brief. Besides that learned A.P.P. has pointed towards the statement of victim-girl aged 4 years recorded by the Magistrate in terms of Section 164 of the Code of Criminal Procedure. It is submitted that the alleged offence is serious against a minor girl, hence, bail is prayed to be rejected.

5. At the instance of report dated 24.09.2021 lodged by the mother of the victim-girl, crime was registered. The victim's mother stated that on the date of occurrence, her minor daughter went to nearby shop to purchase some food items. After sometime, the victim's mother went to see her daughter, on which she saw that the applicant has lifted her daughter and was kissing her. She inquired with her daughter on which the minor disclosed that the applicant/accused lifted her, kissed and had touched to her private part. After the incident, the informant returned to her house and then after two days report has been lodged.

6. On bare reading of report, apparently the ingredients to constitute the offence charged, are evident. However, learned Counsel for the applicant has come up with a specific case of false implication. In that view of the matter, I have gone through the

entire material placed on record. The applicant has submitted that the informant-lady was in live-in-relationship with one Santosh Yadav at whose behest false report has been lodged. It is evident from the police report itself that informant lady has referred Maya Yadav and Jagdish Yadav, who are parents of Santosh Yadav, as her parents-in-law. Moreover, the other paper discloses that Santosh Yadav is a son of Jagdish Yadav to whom the informant referred as her father-in-law. In that context, perusal of paper discloses that there was enmity in between the applicant's family with said Santosh Yadav with whom informant was living.

7. To substantiate the contention, applicant has produced copies of some previous police reports. The copy of First Information Report in Crime No.473 of 2021 registered on 27.04.2021 at Khadan Police Station, District Akola for the offence of extortion, has been produced. It reveals that the applicant himself has lodged the said report against Santosh Yadav for extortion. Pertinent to note that, in said earlier report, the applicant has specifically alleged that Santosh Yadav while threatening him also stated that he would involve the applicant in some false crime. Then, the applicant has produced another copy of First Information Report dated 09.09.2021 bearing Crime No.976 of 2021 registered with Khadan Police Station. The said crime was registered by the father of the applicant, similarly against Santosh Yadav for his

criminal activities under Sections 341, 294 and 506 of the Indian Penal Code. Not only that, the applicant has produced a copy of N.C. Report lodged by his father against Santosh Yadav registered on 21.09.2021 at Khadan Police Station. In that context, it reveals that two criminal complaints for cognizable offence and one N.C. Report was lodged by the applicant and his father against Santosh Yadav.

8. On such a background, on the very next day of the registration of N.C. Report, this First Information Report has been lodged which speaks for itself. Though the alleged occurrence took place on 22.09.2021 at 6.30 pm, but First Information Report was not lodged on the same day or next day. On the canvass of all these previous reports, the strong possibility of false implication cannot be ruled out. Moreover, the applicant has produced a copy of crime chart of Santosh Yadav obtained under Right to Information Act, 2005. As per said crime chart, five previous offences including extortion were registered against Santosh Yadav at Police Station.

9. Already applicant and his father have filed police reports against Santosh Yadav for extortion. The submission that in such a background it is improbable that applicant would still lift the minor requires consideration. On the basis of crimes registered against Santosh Yadav with whom informant is living, possibility of inimical terms is

evident. Moreover, nothing is to be seized from the applicant. There is no complaint against the applicant about misuse of liberty.

10. One of the factor for consideration under Section 438 of the Code of Criminal Procedure is to see whether the accusation has been made with the object of injuring or humiliating the applicant by having him arrested. In above peculiar facts, it is a deserving case where judicial discretion has to be exercised. In view of above, I deem it fit to grant pre-arrest protection to the applicant with certain directions. The above observations are made on *prima facie* basis which has no impact on the merits of the trial. The following order is passed :

- (a) Criminal Application stands allowed and disposed of.
- (b) Ad-interim order dated 14.10.2021 is hereby made absolute upon same terms and conditions.
- (c) The applicant shall continue to attend concerned Police Station till filing of the charge-sheet or for 90 days whichever is earlier.
- (d) The applicant shall not contact personally or through anyone to minor nor try to tamper with the prosecution evidence in any manner.

JUDGE