

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.129 OF 2022

1. Deepak s/o Rama More
 2. Ganesh s/o Indar Pimple
- ... Applicants

Versus

The State of Maharashtra and others

... Respondents

...

Mr. S. S. Choudhary, Advocate for applicants.

Mr. B. V. Virdhe, APP for respondent No.1.

Mr. V. A. Dhakne, Advocate for respondent No.3.

Mr. Dhananjay S. Patil, Advocate for respondent No.3 (Appointed)

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08.03.2022

ORDER :-

. Applicants are apprehending their arrest in connection with Crime No.283 of 2021 registered with Neknoor Police Station, Dist. Beed for the offences punishable under Sections 354, 354-A, 354-D, 452, 323, 506 read with 34 of Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act (for short “POCSO Act”). It will not be out of place to mention here that when the matter was on board on 23.02.2022, this Court was not convinced with the submissions for applicant No.1 and, therefore, the application was rejected as against applicant No.1, however, interim protection was

granted to applicant No.2 and, therefore, the application is now considered only in respect of applicant No.2.

2. Heard learned Advocate Mr. S. S. Choudhary for applicant No.2, learned APP Mr. B. V. Virdhe for respondent Nos.1 and 2 – State and learned Advocate Mr. V. A. Dhakne for respondent No.3 as well as learned Advocate Mr. Dhananjay S. Patil, who is appointed to represent the cause of respondent No.3.

3. Learned Advocate appearing for applicant No.2, learned APP for respondent Nos.1 and 2 – State and learned Advocate representing respondent No.3 as well as the learned Advocate, who was appointed to represent the cause of respondent No.3, as respondent No.3 has not appeared immediately on the next date in response to the notice received by him; have strongly argued for grant and oppose of the application respectively and made submissions supporting their respective contentions.

4. It has been further pointed out by learned Advocate for respondent No.3, Mr. V. A. Dhakne, that on 01.02.2022, applicant No.2 had given threat and, therefore, on that day, informant had lodged the complaint application with District Superintendent of Police, Beed. The threat is given and witnesses are contacted for tampering. Perusal of the

FIR lodged by respondent No.3 shows that she is the mother of the victim. Victim is admittedly a minor. The FIR is in respect of an incident alleged to have taken place on three occasions. The first incident appears to have taken place at about 9.30 a.m. on 08.12.2021. Informant found her daughter crying when she returned home from field around 6.00 p.m. On inquiry, she told that applicant No.2 had supplied her chit given by applicant No.1 and it was thrust in her hand. In the said chit, she was threatened that she should make a phone call on the mobile, which would be supplied by him and she should immediately tell that whether she want mobile. The second incident is stated to have taken place immediately on the same day around 4.30 p.m. and again second chit was given in which it was written "I miss you, उद्या भगवा घाल मी काळा घालतो ड्रेसेस उद्या मोबाईल देतो तु सांगना लाईक करती का नाही". After she narrated that incident to the informant on the same day, they informed it to the father of the victim, but they kept quiet as it would have defamed them. The third incident is stated to have taken place at about 5.30 p.m. on 10.12.2021, when the informant received phone call of her daughter from mobile stating that when she was alone in the house, the applicant No.1 entered the house and outraged her modesty. It is then stated by the informant that applicant No.1 used to follow the victim and has done the acts of

outraging her modesty by entering in the house.

5. Thus, the contents of the FIR show that role attributed to applicant No.2 is that he had supplied the chit allegedly written by applicant No.1 to the victim. There are no allegations that he had done any ill act with the victim and, therefore, he deserves to be protected. As aforesaid, the interim protection was granted to applicant No.2 on 23.02.2022. That order deserves to be confirmed, however, taking into consideration the further development which is brought to the notice of this Court now, that the informant has already lodged a complaint application stating that the witnesses are being threatened, further condition is required to be imposed that the applicant No.2 shall not reside in village Chandani, nor he should visit that village till the conclusion of trial. Hence, the following order :-

ORDER

I) Application stands allowed in respect of applicant No.2 only.

II) The ad-interim protection granted earlier by this Court to applicant No.2 vide order dated 23.02.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicant No.2 – Ganesh Indar Pimple in connection with Crime No.283 of 2021 registered with Neknoor Police Station, Dist. Beed for the offences punishable under Sections 354, 354-A, 354-D, 452, 323,

506 read with Section 34 of Indian Penal Code and under Section 8 of the POCSO Act, he be released on P R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each, if not already released.

III) He shall not reside or visit village Chandani till the conclusion of trial. He should reside elsewhere, and before submission of bail papers, he should give complete address of his proposed residence with his mobile number to the Investigating Officer.

IV) He shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

V) He should cooperate with the investigation and shall remain present before the Investigating Officer as and when called.

VI) Fees of appointed Advocate is quantified at Rs.5,000/- to be paid by High Court Legal Services, Sub Committee, Aurangabad.

[SMT. VIBHA KANKANWADI, J.]

scm