

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 ANTICIPATORY BAIL APPLICATION NO.254 OF 2022

SANTOSH ASHRUBA JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. M.P. Gandle, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent No.1

...

WITH

ANTICIPATORY BAIL APPLICATION NO.255 OF 2022

KRISHNA DNYANESHWAR JADHAV

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. M.P. Gandle, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 01st APRIL, 2022

PER COURT :

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Heard learned Advocate appearing for the applicants.

2 Learned APP strongly opposes the applications for grant of any interim relief on the ground that the matters are coming for the first time and he is yet to receive the papers. Contents of the First Information Report shows active involvement of the present applicants.

3 It appears from the record that initially First Information Report has been lodged by the father of the minor and at that time it was registered under Section 363 of the Indian Penal Code. Later on when the girl has been found, the entire incident appears to have been revealed. The statement of the girl under Section 161 as well as under Section 164 of the Code of Criminal Procedure has been recorded. It is very much clear from the record that she was only 13 years old girl. It is alleged that the present applicants had helped accused No.1 in kidnapping the girl. It is to be noted that the present applicants have been posed as friend of accused No.1 and it is clearly stated that he used to come to the house of applicant in Anticipatory Bail Application No.255 of 2022, thereby the girl got acquaintance with accused No.1. The accused No.1 was already married. Definitely the present applicants would have had knowledge about the said fact; yet, it is then stated that the present applicants as well as accused No.1 had taken the girl in four wheeler to Pune on 25.12.2020. No doubt, as regards the further offences under Section 376, 376(2) (I), (J), (N) of the Indian Penal Code

against accused No.1, so also, under Section 3, 4, 6 of the Protection of Children from Sexual Offences Act are concerned, definitely the applicants would have had the knowledge about the age of the girl.

4 Now, the charge sheet is also filed and it appears that the accused No.1 was arrested on 05.01.2021. It has been shown that the present applicants are absconding though the procedure contemplated under Section 82 of the Code of Criminal Procedure appears to have not been taken by the Investigating Officer. The fact remains that the applicants could not be arrested. Therefore, when the accused-applicants were absconding, in view of the decision in **Lavesh vs. State (NCT of Delhi), 2012 (8) SCC 730**, no protection can be given to the applicants and, therefore, their applications deserve to be rejected at the threshold.

5 After the disinclination has been shown by this Court, the learned Advocate appearing for the applicants submits that time be given to the applicants to surrender before the authorities. In fact, the applicants do not deserve this kind of leniency also. Applications are rejected.

(Smt. Vibha Kankanwadi, J.)