

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.567 OF 2022

1. Tushar s/o Tukaram Chavan
 2. Ronak s/o Tukaram Chavan
- ... Applicants

Versus

The State of Maharashtra

... Respondent

...

Mr. S. R. Andhale, Advocate for applicants.
Mr. V. M. Kagne, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06.05.2022

ORDER :-

- . Heard learned Advocate for the applicant.
2. Learned APP strongly opposes the application for grant of any interim relief. He submits that the matter is coming for the first time and he is yet to receive the police papers, however, taking into consideration the role attributed to the applicants in the First Information Report, interim protection need not be granted.
3. Perusal of the FIR lodged by the informant – prosecutrix would show that she is aged 33 and she is accepting a fact that she was having a love affair with one Anil Chavan. The present applicants are the

cousin brothers of said Anil. According to the prosecutrix the incident had taken place on 21.03.2022 at about 11.00 a.m. She has lodged the report on 22.03.2022 i.e. on the next day. It cannot be at this stage said that there is inordinate delay. According to the prosecutrix, some intoxicant was forcibly administered through liquor to her and, thereafter, the applicants had raped her.

4. The applicants are coming with the case that minor girl in their relation had lodged offence vide Crime No.199 of 2022 with the same police station under Section 376-DA of Indian Penal Code and Section 4, 5-G and 6 of the Protection of Children from Sexual Offences Act against Silvar Chavan, Warga Chavan, Anil Silvar Chavan and Sunil Silvar Chavan. Said Anil has love affair with the informant in this case. That offence came to be registered on 21.03.2022 at 5.44 hours and as a counterblast, it is said that the present FIR has been lodged.

5. We cannot appreciate this aspect, because it would be for the applicants to prove that it is a counterblast. Merely because the lover of the prosecutrix in this case is involved as an accused in the case lodged by the minor girl, we cannot at this stage, which is in fact a very early stage, come to that conclusion. Therefore, there is no question of exercise of discretionary extraordinary power under Section 438 of the

Code of Criminal Procedure by this Court. Application stands rejected at the threshold.

[SMT. VIBHA KANKANWADI, J.]

scm