

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO. 476 OF 2021**

Ravindra Annasaheb Nimbalkar ... Appellant  
Versus  
The State of Maharashtra and another

**WITH  
CRIMINAL APPEAL NO., 467 OF 2021**

Shrikant Haribhau Dale ... Appellant  
Versus  
The State of Maharashtra and another ... Respondents

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Ms Sakshi Ajit Kale, Advocate h/f Mr. A. B. Kale, Advocate for  
appellant in Criminal Appeal No. 467 of 2021  
Mr. A. B. Kale, Advocate h/f Shri A. M. Hajare, Advocate for  
appellant in Criminal Appeal No. 476 of 2021  
Mr. S. P. Sonpawale, APP for respondent – State  
Shri D. S. Pawar, Advocate appointed for respondent No.2

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**CORAM : R. G. AVACHAT, J.**

**DATED : 28<sup>th</sup> FEBRUARY, 2022**

**ORDER :-**

. Both these appeals have been decided by this common  
order since they are interconnected.

2. Both the appeals are under Section 14-A of the  
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities)  
Act, 1989.

3. The challenge in these appeals is to the orders refusing to grant the appellants pre-arrest bail in connection with Crime No. 230 of 2021, registered at Shrirampur Police Station, Taluka Shrirampur, District Ahmednagar for the offences punishable under Sections 366(A), 354(A) of Indian Penal Code, under Section 11 and 12 of the Protection of Children from Sexual Offences (POCSO) Act and under Sections 3(1)(w), 3(2) and 5 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The First Information Report (FIR) has been lodged by a 14 years old girl (victim) on 27.07.2021. It is alleged in the FIR that the informant resides along with her mother Mamta, step-father Balasaheb and her two brothers. The informant was taking education in 8<sup>th</sup> standard in an Ashram School at Rahuri. Due to Covid-19 lockdown, she was back to her parents house at Malwadgaon. It is alleged that the informant along with her step-mother had been out of house to answer nature's call. It was about 10.00 p.m., the appellants came together there along with Anna Nimbalkar and Sharad Asne, and dragged the informant towards a pond. She raised alarm. Her step-mother therefore ran towards her house to inform

the family members. The co-accused Anna kissed the informant while the appellant Sharad touched the informant's breast and private part as well. The informant attempted to shout, then one of the appellants pressed her face and gave her threats. The parents of the informant set out in search for her. The informant, however, returned home after a while. The report was lodged three days after the incident since the appellants had given her threats.

5. Heard. Perused the FIR and all the papers relied on.

6. The learned APP and the learned Advocate appointed to represent the victim would submit that the allegations in the FIR undoubtedly make out the offences under both S.C. S.T. Act and POCSO Act. The appellants are therefore not entitled for pre-arrest bail.

7. The learned Advocate for the appellants would, on the other hand submit that the false FIR has been lodged at the instance of the mother of the victim. In support of his contentions he brought to the notice of this Court certain facts. He, ultimately, urged for grant of pre-arrest bail.

8. The alleged incident took place by 10.00 p.m. on 24.07.2021. The FIR has, however, been lodged three days thereafter. The explanation offered for delay in lodging of the FIR does not appeal since the relationship between the informant's mother on the one hand and the appellant Ravindra Nimbalkar on the other, have not been good. The informant has support of her family members. One of them could have lodged the FIR immediately. The record indicates that way back on 20.03.2019, the mother of the informant had lodged FIR against one Balasaheb (step-father of the informant herein). It was alleged therein that Balasaheb had entered the room wherein the informant herein was sleeping. He undressed himself and slept by the side of the informant and ran his hand over her body. It appears that in the said prosecution the informant's mother did not lead evidence consistent with her FIR dated 20.03.2019. Balasaheb with whom the informant's mother was residing as his wife, thus came to be acquitted. This fact shows how informant's mother was exposing her daughter (informant herein) so as to rope others in criminal case. The record indicates that not less than 100 villagers had approached the concerned police station alleging the informant's mother to have

been implicating some of the villagers in false case(s) to extract money. There is on record a copy of the judgment in Regular Criminal Case No. 175 of 2019, wherein both real and step mothers of the informant herein were accused along with her step-father. It was the case for offences punishable under Sections 324, 323, 504 and 506 of the Indian Penal Code. The said crime was registered on the FIR lodged by Latabai, wife of Annasaheb Nimbalkar i.e. mother of appellant herein. The same indicates that all was not well between the informant on one hand and the appellant Ravindra Nimbalkar, on the other. There is delay of three days in lodging of the FIR. There is every reason to observe that veracity of the allegations in the FIR is under suspicion. This Court, vide order dated 28.10.2021, has protected the appellants herein. The same order needs to be confirmed.

9. While this Court pronounced the order, it is informed by the learned APP that the offences registered against the appellants herein are under the S.C. S.T. Act and POCSO Act. According to him, in view of the Division Bench order of this Court dated 24.11.2021, passed in Criminal Appeal No. 362 of 2021 (Gorakshnath @ Samadhan Navnath Pagar Vs. The State of

Maharashtra and another), the appeal is not maintainable. The appellants should convert the appeals into application for anticipatory bail.

10. The appellants had already been protected way back on 28.10.2021. These are the appeals for anticipatory bail. This Court had already disclosed its mind confirming the order granting interim protection. In the fitness of things and as exception, it would therefore not be desirable now to direct the appellants to convert the appeals into applications and the same would be heard again.

11. The appeals are therefore allowed in terms of following order:

### **ORDER**

- (i) The appeals are allowed.
- (ii) The impugned orders are quashed and set aside.
- (iii) The interim protection granted by this Court vide order dated 28<sup>th</sup> October, 2021, is hereby confirmed.
- (iv) The appellants shall not tamper with the prosecution evidence and shall report to the concerned Police Station as and when required.

- (v) Fee of learned Advocate (appointed) to represent respondent No.2 is quantified at Rs.6,000/- (Rupees Six Thousand Only).

[ R. G. AVACHAT, J. ]

SMS