

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1699 OF 2021

1. Nandini Ambadas Jadhav
 2. Yanabai Maruti Jadhav
- ... Applicants

Versus

1. The State of Maharashtra
 2. XYZ
- ... Respondents

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Mr. S. S. Jadhav h/f Mr. H. D. Deshmukh, Advocate for applicants.

Mr. A. M. Phule, APP for respondent No.1 – State.

Mr. A. C. Sisodiya, Advocate for respondent No.2 (Appointed)

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 23.12.2021

Pronounced on : 04.01.2022

ORDER :-

. Present application has been filed under Section 439 of the Code of Criminal Procedure by the ladies, who have been made as an accused at Serial Nos.3 and 7 in the FIR i.e. Crime No.656 of 2021 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 354, 354-B, 324, 323, 504, 506, 143, 147, 363, 511 of Indian Penal Code, under Sections 7 and 8 of the Protection of Children from Sexual Offences Act (hereinafter referred to as the “POCSO Act”) and under Sections 3(1)(w)(i), 3(2)(v-a), 3(1)(r)(s) of

Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the “Atrocities Act”).

2. It will not be out of place to mention here that though the application was filed on behalf of applicant No.2 who has been arrayed as accused No.4 in the FIR, has been deleted by the order of this Court dated 18.11.2021.

3. Heard learned Advocate Mr. S. S. Jadhav holding for learned Advocate Mr. H. D. Deshmukh for the applicants, learned APP Mr. A. M. Phule for respondent No.1 – State and learned Advocate Mr. A. C. Sisodiya for respondent No.2. In order to cut short it can be said that they have made submissions in support of their respective contentions.

4. Perusal of the FIR would show that it is lodged by the girl aged 18 years and it was filed on 28.08.2021 in respect of the incident that had taken place on 27.08.2021. Though the informant had given her age as 18 years at the time of FIR, it appears that later on her record in respect of birth date has been collected and it is then revealed that she had not completed 18 years when the alleged offence has taken place. Hence, Sections under POCSO Act came to be added. The informant has stated that when she was passing near the kitchen garden, in which the crop of ladyfinger was grown, at that time, accused Nos.1 and 2 had driven

vehicle in rash way. Therefore, she asked as to why they are driving it in such a way. At that time, accused No.1 got down, her hairs were pulled and she was made to lie on the ground. Accused No.2 then got down and gave kick to the informant. When she was trying to run, at that time, accused No.1 torn her clothes and he misbehaved with her thereby outraging her modesty. It is then stated that applicant No.1 and another lady, who are wives of accused Nos.1 and 2 came and manhandled as well as slapped the informant. Again accused Nos.1 and 2 had assaulted her. Accused No.7, who is the mother of accused Nos.1 and 2, came there and she pulled the cheeks of the girl. The father of accused Nos.1 and 2 then gave threat to kill the girl. The informant went to the house of one Kisanrao Patil, to whom she narrated the incident and while she so narrating, at that time, accused No.7 pulled the hairs of informant and she was again assaulted. Informant became unconscious and was taken to hospital. She was then shifted to Lifeline Hospital, Ahmednagar from where she lodged the report.

5. Thus, perusal of the FIR would show that the role attributed to present applicants is that they had pulled hairs and slap assaulted by hand to the informant. At the most then offence under Section 323, 504, 506 of Indian Penal Code would be attracted. Since the applicants are also ladies, it is hard that any offence under POCSO Act would be

revealed. Further, the perusal of the FIR would also show that there was no utterance in the name of caste to the informant or the act was done by the applicants only on the count that the girl was of a particular caste. No doubt, caste certificate of the informant has been collected which shows that she is member of the scheduled caste.

6. Substantial part of investigation appears to be over. The Medico Legal Certificate of Lifeline Hospital shows that she had suffered only one injury i.e. blunt trauma over chest and abdomen and it was simple in nature. Statement of the informant has also been taken under Section 164 of the Code of Criminal Procedure and it is also giving almost same role to the present applicants. Applicant No.2 is aged 65 years and, therefore, taking into consideration these aspects, the applicants deserve to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicants – Nandini Ambadas Jadhav and Yanabai Maruti Jadhav, who have been arrested in connection with Crime No.656 of 2021 registered with Newasa Police Station, Dist. Ahmednagar for the offences punishable under Sections 354, 354-B, 324, 323, 504, 506, 143, 147, 363, 511 of Indian Penal Code, under Sections 7 and 8 of the POCSO Act and under Sections 3(1)(w)

(i), 3(2) (v-a), 3(1)(r)(s) of the Atrocities Act, be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.

III) The applicants shall not tamper with the evidence of the prosecution in any manner.

IV) They shall not indulge in any criminal activity.

V) Bail before the Trial Court.

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

[SMT. VIBHA KANKANWADI, J.]

scm