

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. ANTICIPATORY BAIL APPLICATION NO. 2615 OF 2021

Sunny @ Satchit Dattatray Bavalekar	..Applicant
Vs.	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO. 330 OF 2022
IN
CRI. ANTICIPATORY BAIL APPLICATION NO. 2615 OF 2021**

Ajit Hiru Dalvi	..Applicant
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IN THE MATTER BETWEEN

Sunny @ Satchit Dattatray Bavalekar	..Applicant
Vs.	
The State of Maharashtra & Anr.	..Respondents

**WITH
CRI. ANTICIPATORY BAIL APPLICATION NO. 2495 OF 2021**

Ghansham Mahadev Pharande	..Applicant
Vs.	
The State of Maharashtra & Anr.	..Respondents

**WITH
CRI. ANTICIPATORY BAIL APPLICATION NO. 2562 OF 2021**

Yogesh Dattatray Bavalekar	..Applicant
Vs.	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO. 361 OF 2022
IN
CRI. ANTICIPATORY BAIL APPLICATION NO. 2562 OF 2021**

Ajit Hiru Dalvi ..Applicant

IN THE MATTER BETWEEN

Yogesh Dattatraya Bavalekar ..Applicant

Vs.

The State of Maharashtra & Anr. ..Respondents

Mr. A. P. Mundargi, Senior Advocate a/w. Mr. Ganesh Gole and Mr. Aarif Ali, for the Applicants.

Mr. S. R. Agarkar, APP for the Respondent / State.

Mr. Sameer Kadam, for the Intervener.

Mr. Ateet Shirodkar, for the Respondent No.2.

PSI A.M. Bidri attached to Mahabaleshwar Police Station present.

**CORAM : C.V. BHADANG, J.
DATE : 1 FEBRUARY 2022
(Through Video Conferencing)**

P.C.

. All these applications, seeking anticipatory bail, arise out of Crime No. 87 of 2021 of Mahabaleshwar Police Station, District Satara, under Section 376 (2)(n), 506 read with Section 34 of IPC and Section 4, 6 and 17 of the Protection of Children from Sexual

Offences Act ('POCSO Act' for short) and Section 80, 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. The aforesaid crime is registered on the basis of the complaint dated 21.09.2021 lodged by the mother of the victim. According to the informant, in April 2021, the victim who was then aged about 16 years, had missed her menstruation period. She was taken to a Doctor when she was found to be carrying a pregnancy. On inquiry, the victim informed that she was subjected to forcible sexual intercourse by one Sagar alias Aba Gaikwad and also, by Ashutosh Biramane. The informant made an attempt to abort the pregnancy. However, on account of the fact that it was an advanced pregnancy, the same could not be done. On 13.09.2021, the victim delivered a girl child.

3. The informant who is the mother of the victim was serving in the garment shop of the Applicant Sunny Bavalekar under the name and style as 'Sunny Selection'. The allegation against the Applicant Sunny @ Satchit Bavalekar is that he had facilitated the girl child born to the victim, being given in adoption to the co-accused Mr. Chaurasia. The child was given in adoption on 19.09.2021 in a ceremony in Hotel Sunny International in the presence of Advocate Prabhakar Hirve, the Prist Mr. Sanjay Jangam and Advocate Ghanshyam Pharande. Thus, the only allegation against the

Applicant Sunny @ Satchit Babalekar is that he had facilitated the adoption of the child to the brother of his friend Mr. Chaurasia. The Applicant Ghansham is the Notary, who has notarised the Adoption Deed and the Applicant Yogesh Bavalekar has signed as a witness on the Adoption Deed. Thus, it can be seen that none of the Applicants are involved in the offence of the alleged sexual abuse of the victim, who is a child within the meaning of Section 2(d) of the POCSO Act. The offence, if any, according to the prosecution, falls under Section 80, 81 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015, regarding illegal / irregular adoption of the child born to the victim. It can be seen that Section 80 provides for punitive measures for adoption without following prescribed procedures and invites a maximum sentence of three years with fine. Section 81 is regarding sale and procurement of children for any purpose. There are no allegations about any sale and procurement of the child, who was given in adoption. Lastly, Section 87 provides for abetment and invites the same punishment as provided for the offence abetted. Thus, it can *prima facie* be seen that at the highest, the offence would invite a maximum sentence of three years with fine.

4. The learned APP in the circumstances submitted that the Applicants may be directed to join the investigation.

5. Considering the over all circumstances, I do find that the custodial interrogation of the Applicants is not warranted. Hence, the following order:

ORDER

i) The Applicants Sunny @ Satchit Dattatray Bavalekar, Ghansham Mahadev Pharande and Yogesh Dattatray Bavalekar be released on bail in the event of their arrest in connection with the investigation of Crime No. 87 of 2021 of Mahabaleshwar Police Station, District Satara, on executing a PR Bond in the sum of Rs.20,000/- each with one or two solvent sureties each in the like amount.

ii) The Applicants shall report to the Investigating Officer and as and when required by the Investigating Officer.

iii) The Applicants shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

iv) The Applicants shall not directly or indirectly make any attempt to contact, influence, coerce the informant and the victim.

v) The Criminal Applications are disposed of in the aforesaid terms.

vi) The Interim Applications are also disposed of.

C.V. BHADANG, J.