

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.194 OF 2022

1. Ganesh Dnyaneshwar Pawar
2. Ashok @ Anandrao Nivrutti Mahamulkar ...Applicants
Vs.
The State of Maharashtra & Anr. ... Respondents

Ms.Manisha A. Deokar for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent-State.
Mr.Prashant Hagare for the Intervenor.

CORAM : C.V. BHADANG, J.

DATE : 24 MARCH 2022

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P.C.

. By this Application, the Applicants are seeking bail in Crime No.217 of 2021 registered with Medha Police Station, District-Satara, under Section 376(2), 376(AB), 354(B), 354(D), 363, 342 read with Section 34 of the Indian Penal Code and Sections 4,6,8,9 and 10 of the Protection of Children from Sexual Offences Act 2012 ('POCSO' for short).

2. The aforesaid crime is registered on the basis of the complaint dated 15 September 2021 lodged by the grand-mother of the victim. The victim at the relevant time was aged about 10

years and is stated to be a special child studying in the Primary School at Newekarwadi in forth standard.

3. According to the prosecution on 11 September 2021 at about 5.45 p.m. the Accused No.1 Baban Jaganath Sakpal @ Babling who is aged about 65 years is alleged to have called the victim while she was playing and had inappropriately touched her and after which she was sexually abused. The victim also informed that somewhere in April 2021 also the accused No.1 had inappropriately touched her. On the basis of such a complaint the offence is registered.

3. The Applicants are arrested on 17 September 2021 and since then are in custody.

4. Insofar as who are the Accused Nos.2 to 5 the allegation is that they prevented and tried to persuade the informant not to lodge the complaint as it will damage the reputation of the village had made an attempt to persuade the informant to settle and sort out the matter in the meeting of the villagers.

5. It is claimed that on 14 September 2021 there was a meeting in which the Applicants were present, with an intention

to sort out the matter. Except this there are no allegations against the Applicants.

6. I have heard the learned counsel for the parties. Perused record.

7. It can *prima facie* be seen that no particular Section has been pointed out from the POCSO Act under which allegations made against the Applicant can fall.

8. The learned Additional Public Prosecutor submitted that they had prevented the informant from reporting the matter to the Police and thereby made an attempt to screen the offender. In my considered view, there is a serious doubt whether the allegations can invite an offence of abetment under Section 17 of the POCSO Act which has been invoked by the prosecution. It is necessary to note that normally an abetment of the offence would be an act which would precede the commission of the offence and not otherwise.

9. Be that as it may, having regard to the allegations made against the Applicant and the fact that the investigation is complete and the charge-sheet is filed and one of the Accused Keshav Mahamulkar having similar allegations has been released

on bail by the learned Special Court, the following order is passed.

ORDER

(i) The applicants-Ganesh Dnyaneshwar Pawar and Ashok @ Anandrao Nivrutti Mahamulkar, be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties each, in the like amount.

(ii) The applicants shall undertake to remain present before the learned Special Judge during the trial, unless exempted.

(iii) The applicants shall not tamper with the prosecution evidence/witnesses.

(iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(v) The bail bonds to be furnished before the learned Special Judge.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.