

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

ANTICIPATORY BAIL APPLICATION NO. 2536 OF 2021

Mohammed Imran @ Sukhvinder Pal
Ranjit Singh Shergill Applicant
Versus
The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 64 OF 2022**

Kala Pyarelal Arya Intervenor.

In the matter between:

Mohammed Imran @ Sukhvinder Pal
Ranjit Singh Shergill Applicant
Versus
The State of Maharashtra Respondent

Smt. Tripti R. Shetty for Applicant.
Mr. Shreeram Shirsat a/w. Amandeep Singh SRA for Intervenor.
Mrs. J. S. Lohokare, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 10th JANUARY, 2022
(through Video Conferencing)**

P.C. :

1. The Applicant is seeking anticipatory bail in connection
with C.R.No. 134 of 2021 registered at CBD Belapur Police Station,

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Navi Mumbai, on 03/07/2021, under sections 354-A, 376(2)(f), 376-AB of the Indian Penal Code (for short 'IPC') and under section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Smt. Tripti Shetty, learned counsel for the applicant, Smt. Lohokare, learned APP for the State and Shri. Shreeram Shirsat, learned counsel for the Intervenor.

3. The First Information Report (for short 'F.I.R.') is lodged by the maternal grand-mother of the victim. At the time of lodging of F.I.R. the victim was 12 years of age. The victim's parents had got married in the year 2006. In August 2014, the victim's parents and brother had gone to Dubai for the victim's father's job. The couple got divorce in 2017. The victim continued residing with her mother and some times used to visit the applicant-her father. In July 2020, the victim came to reside with the first informant. In April 2021, when the informant was watching a T.V. serial with the victim, suddenly the victim got scared. The informant took her in confidence and asked about the reason of her discomfort. At that time, the victim told the

informant that, in the year 2018 when she had gone to applicant-her father, he had committed an act which would fall within the definition of “penetrative sexual assault” and other sections of POCSO Act. The victim also narrated about the incidents which had taken place in the year 2012.

4. On 12/04/2021, the victim’s mother came to India. The informant told her about the victim’s ordeal. They discussed this matter with the informant’s son who was residing at Delhi and finally they decided to lodge complaint. Then this F.I.R. is lodged.

5. Learned counsel for the applicant submitted that the F.I.R. is a result of bitter battle between the husband and wife i.e. between the parents of the victim. The mother of the victim is using the victim as a tool to keep serious pressure on the applicant. The applicant is victim’s father. Learned counsel submitted that the incidents are quite old and there is no explanation offered why all the parties had kept silent for so long. She submitted that, regarding the incident which had allegedly taken place in the year 2012, the victim’s mother had not mentioned it in any of the proceedings. She further submitted that the F.I.R. is lodged

belatedly. The victim had told her about the incident in April 2021 and F.I.R. is lodged on 03/07/2021. This delay is not explained.

6. Learned counsel for the first informant submitted that, in such matters it is not expected that the victim would immediately narrate the incident to police. The victim was of tender age and only after she was taken in confidence, she has narrated this incident to her grand mother. He submitted that, in such cases, the delay is understandable. He further submitted that the very fact that 12 year old daughter has complained about her father, this fact needs to be treated seriously and at this stage, victim's version should not be doubted. Shri. Shirsat further submitted that, in fact, offence punishable under section 10 is also made out as it would be aggravated sexual assault under section 9(l) and 9(n) of the POCSO Act.

7. Learned APP opposed this application. She also submitted that the allegations are serious.

8. I have considered these submissions. As rightly submitted by Shri. Shirsat, it would be a case of 'aggravated sexual assault' besides offence under section 4 i.e. penetrative sexual

assault. At this stage, it is really difficult to observe that what victim is saying is a result of tutoring. Though there is bitter battle between her parents, it would be unfair to the child to attribute motive. The allegations are very serious. It is difficult to believe that the victim would succumb to the tutoring of her mother. Significantly when she had narrated these instances to the informant, her mother was not in India. The victim had told these facts to her grand mother who had taken her in confidence. Then only this fact came to light. The matter definitely requires investigation. The offence is very serious. Therefore, no case for grant of anticipatory bail is made out.

9. The application is rejected.

10. In view of disposal of this application, the interim application does not survive and it is also disposed of accordingly.

(SARANG V. KOTWAL, J.)