

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

ANTICIPATORY BAIL APPLICATION NO. 2113 OF 2019

Mamta w/o. Sanjay Kirtaniya ..Applicant

v/s.

The State of Maharashtra . ..Respondent

**WITH
INTERIM APPLICATION NO. 867 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO. 2113 OF 2019**

Anamika Sanjay Kirtaniya ..Applicant

v/s.

The State of Maharashtra . ..Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1975 OF 2018**

Dinesh Radhysham Sharma & Anr. ..Applicants

v/s.

The State of Maharashtra . ..Respondent

Mr. Ashok Saraogi for the Applicants.
Mrs. A.A.Takalkar, APP for the State.
Mr. Sadanand Shetty with Sharayu Sankarnarayan for the Intervenor/
Respondent No.2.
Mr. Bhaskar Kadam from Bangur Nagar Police Stn. present.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 29th MARCH, 2022.**

P.C.

1. These applications under Section 438 Cr.P.C. are filed by the
aforesaid Applicant seeking pre-arrest bail in C.R.No. 275 of 2018

registered with Bangur Nagar Police Station, Mumbai for the offences under Section 354, 509, 506, 114 of IPC and Section 8, 12 and 17 of Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard Mr. Saraogi, learned Counsel for the Applicant, Mrs. Takalkar, learned APP for the State, and Mr. Shetty for the Respondent No.2. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime has been registered pursuant to the FIR lodged by Respondent No.2, who is daughter of Applicant Mamta and niece of Applicant Dinesh Sharma. She has alleged that the Applicant Atul used to show her obscene videos and outrage her modesty. The Respondent No.2 has stated that her mother had extra marital relationship with the Applicant accused. She further claims that her mother used to leave her alone with said Atul, and that Atul used to molest her and outrage her modesty.

4. The incidents alleged by the Respondent No.2 are of the year 2014 and 2015. The records indicate that on 14.8.2018 the Respondent No.2 had lodged a complaint before the Police Inspector of Bangur Police Station, alleging that her mother Mamta, her matrimonial Uncle Dinesh and the Applicant Atul had threatened her father and brother with dire

consequences. She had also alleged that her mother and her uncle had once tried to take her forcibly from a public event. She had complained that her mother and maternal Uncle Dinesh and Ratanlal, her maternal grand mother Bimla Sharma and the Applicant above named used to harass her since she was minor. No allegation of outraging modesty or of sexual abuse was made in the said complaint dated 14.8.2018.

5. It is not in dispute that there is matrimonial dispute between the Applicant, Mamta and her husband. Applicant Mamta had also filed complaint against her husband for offences under Section 307, 354, 377, 498A, 506(ii) and 500 of IPC., pursuant to which C.R.No. 282 of 2018 has been registered against the Applicant.

6. The present complaint appears to have been lodged as a counter blast to the complaint lodged by Applicant Mamta. Considering, this aspect, this Court by Order dated 27.09.2019 had granted interim bail to the Applicant.

7. Learned APP states that all the Applicants have been interrogated and that the investigation has been completed. Considering the nature of accusation, and the material in support thereof, in my considered view, this is not a case which justifies custodial interrogation. In the circumstances, the Applications are allowed on the following terms and

conditions:-

- (i) In the event of arrest of the Applicants in Crime No.275 of 2018 of Bangur Nagar Police Station, the Applicants be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand Only) each, with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.
- (ii) The Applicants shall provide their permanent as well as temporary address, if any, and their contact details to the Investigating Officer.
- (iii) The Applicants shall not change their residential address without prior intimation to the Investigation Officer.
- (iv) The Applicants shall not interfere with the complainants and the other witnesses in any manner.

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(ANUJA PRABHUDESSAI, J.)