

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 274 OF 2023

1. Sanjay Mahadev @ Madhav Mali
2. Gorakh Pandurang Bansode
3. Laxman Shivaji Bansode
4. Mahadeo @ Madhav Maruti Bansode (Ghodake) ..APPLICANTS

VERSUS

State of Maharashtra and Others ..RESPONDENTS

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Mr. S.N. Patne, Advocate for applicants

Ms. R.P. Gour, A.P.P. for respondent nos.1 and 2

Ms. T.V. Jadhav, Advocate for respondent no.3 (appointed)

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CORAM : R.G. AVACHAT, J.

DATED : 27th MARCH, 2023

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicants claim to have an apprehension of being arrested in connection with Crime No. 57 of 2023 registered with Omerga Police Station, Dist. Osmanabad for the offences punishable under Sections 143, 147, 149, 354, 354-A and 506 of the Indian Penal Code ('I.P.C.') and under Sections 8 and 12 of Protection of Children from Sexual Offences Act.

2. Heard. Perused First Information Report ('F.I.R.') and related police papers.

3. F.I.R. has been lodged by mother of the victim on 28th January, 2023. It has been alleged in the F.I.R. that the informant has a daughter of little over seventeen years and six months old. By 04:00 p.m. on 27th January, 2023, the applicants alongwith co-accused (arrested) had gone to the informant's residence. She was not home. The applicants and co-accused told the victim that they have come to take her away. They insisted the victim to marry Tukaram Bansode. It was Tukaram Bansode, who was physical with the victim. The applicants are alleged to have been in the company of the main accused – Tukaram Bansode. The applicants are further alleged to have told the victim that she should marry Tukaram Bansode. They also threatened the victim if she did not join them, her brother would be eliminated.

4. Learned counsel for the intervener would submit that considering the nature of offence, the applicants do not deserve anticipatory bail, although their custodial interrogation may not be warranted. She would further submit that if any conditions are imposed, the applicants are so influential that they are likely to breach the same and therefore, conditional anticipatory bail would be of no avail.

5. From the nature of allegations in the F.I.R. it appears that custodial interrogation of the applicants is not warranted. There is about

twenty-seven hours delay in lodging the F.I.R. The main accused has already been arrested. After having considered the rival submissions, the Court finds that since there being delay of little over one day in lodging the F.I.R. and the allegations made against the applicants in the F.I.R. suggest their custodial interrogation is not warranted, order dated 27th February, 2023 granting them protection, is hereby made absolute. The applicants shall appear before the investigating officer, as and when required for the investigating purpose. The applicants shall not tamper with the prosecution evidence.

6. Fees of Ms. Tanvi V. Jadhav, learned counsel, appointed to represent Respondent No.2, is quantified to Rs.6,000 (Rupees Six Thousand).

(R.G. AVACHAT, J.)

SSD