

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.437 OF 2023

1. AKSHAY DEVILAL MANDVE
2. PANKAJ RAMLAL DHAMUNE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. K. N. Shermale
APP for Respondent No. 1: Mrs. G. L. Deshpande
Advocate for Respondent No. 2 : Smt. U. A. Bhosle

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CORAM : R.M. JOSHI, J

DATE : JULY 06, 2023

PER COURT :

1. Applicants apprehends arrest in connection with with C.R. No. 414 of 2022 registered with Sangamner City Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 376(2)(n), 323, 506 of the Indian Penal Code and Sections 8 and 12 of the POCSO Act.

2. Informant reported to the police that relations had developed between her and prime accused. It is further alleged that prime accused used to take disadvantage of her and has also duped her money. There is allegation that on 19.12.2021 a complaint was made by her with regard to threatening caused by co-accused

to informant. There is a reference in the FIR that on the same day at around 8 pm the co-accused came to the house of informant and committed rape on her. It is alleged that present Applicants that on 17.01.2022 they along with co-accused torched the house of the informant. There is allegation made with regard to the incident occurred on April, 2022 wherein the present Applicants outraged modesty of daughters of informant. On the basis of these allegation, Applicants are apprehending arrest.

3. Learned Counsel for the Applicants states that number of complaints are lodged by the informant against co-accused and only because the Applicants are his relatives they are also roped therein. Reference is made to the previous reports lodged by the informant which do not state anything in respect of alleged incident of commission of rape by the co-accused on the informant. It is also pointed out that the letters were written to the State Women Commission on 07.06.2022 wherein there is no reference made about outraging modesty of daughters of informant. Thus, according to him, this is nothing but a false complaint to implicate

Applicants.

4. Learned APP and learned Counsel for the informant opposed the application by submitting that informant specifically made allegations against present Applicants by setting her house on fire. It is further informed that separate offence is registered against Applicants in this regard. It is further stated that the informant being mother would not state any false statement in respect of her daughters which are likely to caste lot on their. It is also stated that considering number of offences registered against Applicants it is not a fit case for grant of anticipatory bail.

5. Merely because informant is lady and she lodges report, her contention cannot be accepted blindly more particularly the fact that at all point of time as it reveals in the reports improvements are made by the informant. In first information report lodged on 19.12.2021 there is no reference made about alleged rape being committed by the co-accused on her which now reflected in the present FIR. Apart from this fact, the informant on her own made a complaint to the State

Women Commission giving altogether different version of the incident which allegedly occurred. Thus, *prima facie* contention of the informant is not believable. There is reason to accept the contention of the Counsel for the Applicants that this could be a case of false implication.

6. Hence, the application is allowed by confirming interim order dated 28.03.2023 with a condition that Applicants to attend concerned police station once in fortnight. Fees of the appointed Counsel is quantified @ Rs. 6,000/- (Rupees Six Thousand Only) to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(R.M. JOSHI, J.)

Malani