

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 486 OF 2023

Sameer s/o Ismail Pathan

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. Sohail Subhedar, Advocate holding for Mr. N. S. Ghanekar,
Advocate for the applicant.

Mrs. R. P. Gour, APP for the State.

Mr. A. R. Hange, Advocate for respondent No. 3.

CORAM : R. M. JOSHI, J.

DATE : 27th JUNE, 2023.

ORDER

1. Applicant apprehends arrest in connection with Crime No. 29/2023 registered with Chaklamba Police Station, Dist. Beed for the offences punishable under Sections 354, 354A, 506 of Indian Penal Code and Sections 8 and 12 of Protection of Children from Sexual Offences Act.

2. Informant is the grand mother of victim. On 08.02.2023 victim informed her that on the previous day at about 7.45 am, when she was coming home, applicant came from behind and embraced

and kissed her and told her that he likes her. She raised shouts and therefore, after threatening her not to disclose the incident to anyone, he left. On the basis of this, report was lodged.

3. Learned counsel for the applicant states that the First Information Report is lodged on 08.02.2023 at around 6.35 pm and thus, there is delay in lodging the same. It is contended that there are disputes between the family of informant and applicant. To support said contention, he placed reliance on copy of complaint in Criminal Case No. 245/2010 in which father of the applicant had lodged criminal proceeding against informant and her family. It is also submitted that there was a phone call made by the victim to the applicant and recording of the same suggests that she was being prompted by her uncle. Thus, according to him, it is a case of false implication.

4. Learned APP opposes the said submission by stating that at this stage the First Information Report cannot be disbelieved and having regard to the nature of offence, it is not a case for grant of anticipatory bail.

5. Learned counsel for the informant vehemently opposes the application by contending that there is no delay in lodging First Information Report as the victim who is minor was not expected to go to the police station and lodge report immediately. It is also contended that the criminal complaint of the year 2010 cannot become a ground for false implication of applicant in this crime. As regards telephonic conversation between victim and applicant is concerned, he admits that the victim did make a phone call to the applicant however, the same was made in order to question him about the incident of previous night. Thus, according to him, it is not a case for protecting liberty of the applicant.

6. No doubt, victim is not expected to go to the police station immediately and lodge report. However, as a matter of fact, she informed about the incident of last night to her grand mother at 8.00 am on 08.02.2023. The report however, is lodged at 6.30 pm. There is no explanation about non-reporting of the said incident to the police at least immediately after informing the same by victim to her grand mother. In the light of this fact, previous dispute between the family of applicant and informant assumes importance. It may be a fact that previous complaint was of the year 2010. However,

there is no dispute about such complaint being lodged by the father of the applicant against informant and her family members. Thus, there is substance in the contention of learned counsel for the applicant that this would be a case of false implication. Since there was no dispute between the parties about exchange of phone call between the victim and applicant, in the open Court, said conversation was heard in the presence of learned counsel for both the sides. Said conversation clearly indicates that the uncle of the victim was prompting the victim as to what to be said to the applicant. This Court, therefore, finds substance in the contention of learned counsel for the applicant that this could be a case of false implication. Having regard to this fact and also in view of the fact that no custodial interrogation of the applicant is necessary, it is a fit case for grant of pre-arrest bail to the applicant with appropriate condition. Hence, application is allowed in terms of the interim order with a condition that he shall attend the concerned police station once in a week.

(R. M. JOSHI)
Judge