

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1087 OF 2023

1. Shivraj Champatrao Mohite
2. Sumitra w/o Shivajirao Mohite
3. Madhav Champatrao Mohite
4. Manisha w/o Madhav Mohite
5. Rajkumar Raosaheb Shinde
6. Raosaheb Jelaji Shinde
7. Mukta w/o Raosaheb Shinde

Applicants

Versus

State of Maharashtra & another

Respondents

Mr. S. S. Jadhavar, Advocate for the applicants.
Mrs. R. P. Gour, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 27th JULY, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 88/2023, registered with Chudava Police Station, Dist. Parbhani, for the offences punishable under Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 2006.

2. Allegations in the First Information Report are that the marriage of a girl aged about 17 years and 4 months was performed. Parents of the bride, bride groom as well as the relatives are charged for the offence punishable under the said Act.

3. Learned counsel for the applicants states that this is not a case where custodial interrogation of the applicants is necessary and that they cannot be sent behind the bar by way of pre-trial sentence.

4. Learned APP strongly opposed the application by contending that a signal needs to be sent in the society that such acts like child marriage which are prohibited by law are not tolerated and hence, it is not a fit case for grant of anticipatory bail.

5. The offence charged against the applicants is punishable with imprisonment of two years. Needless to say that nothing is to be recovered at the instance of the applicants. For the purpose of grant or refusal of anticipatory bail, the relevant considerations would be seriousness of the crime, sentence attracted towards it and the need of custodial interrogation for recovery of any incriminating article etc.

For all these three grounds, the contention of learned APP cannot be accepted. Though there cannot be any justification that such child marriage should be recognised in the society, however, at the same time, it cannot be forgotten that the applicants cannot be sentenced to suffer pre-trial imprisonment. In view of this, application is allowed in terms of the interim order with a condition that only applicants No. 1 and 2 shall attend the concerned police station once in a fortnight till filing of the charge-sheet.

(R. M. JOSHI)
Judge

dwb