

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

ANTICIPATORY BAIL APPLICATION NO.1254 OF 2023

**VISHNU JAGANNATH RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. J. Salunke, Advocate and Ms. Ashwini Lomte, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State
Mr. Y. K. Bobade, Advocate for respondent No.3.

CORAM : R. M. JOSHI, J.

DATE : 5th SEPTEMBER, 2023

P.C. :-

1. The provisions of the POCSO are meant to protect the girls from abuse of any nature. It is often seen that the girls get abused at the hands of closely relatives or known persons rather than the outsiders. Present case is one of such bad instance, wherein the girl aged 15 years is physically abused by accused aged about 30 years.
2. As per the first information report on 08/06/2023 at around 7 pm the applicant came to house of victim girl. He told her that he will take her to her maternal aunt on his motorcycle. After traveling distance of half a kilometer from the village, he started abusing her physically as specifically spelt out in report to police. At that time one person unknown to the girl came to the spot and asked her as to why she is crying. Thereafter the applicant called father of the victim by informing him that

the girl has fallen from the motorcycle. On these amongst other allegations offence is registered against the applicant.

3. Learned counsel for the applicant states that the applicant is falsely implicated in this crime at the instance of Rahul Pawar who is the one who came to the spot as referred in the first information report. It is her submission that in order to settle the score with the applicant, at the behest of victim a false report is lodged. It is her further submission that custodial interrogation of the applicant is not necessary and hence he be enlarged on pre arrest bail.

4. Learned APP and learned counsel for the victim opposed the said submission by relying upon the statement of witness who had seen victim and applicant together at the spot, where she was found crying. It is argued that only the reason that nothing is to be recovered from applicant, he cannot be granted bail, which would send a wrong signal in society.

5. There is no dispute about the fact that the victim or her family members do not have any dispute of whatsoever with applicant herein. Hence, it does not stand to any reason as to why the victim who is aged about 15 years would make false allegation against the applicant at the instance of witness Rahul Pawar who has no connection with family. There is nothing on record to indicate that this witness related with

informant so as to influence them to lodge false report. In such circumstances, there is no reason to hold that the allegations of serious nature have been made on say of someone else. Most importantly there is no delay in lodging of report, which rules out possibility of concoction or exaggeration.

6. Perusal of the report indicates that immediately after travelling some distance on motorcycle, applicant got the girl down from motorcycle and behaved with her indecently. Applicant's intention and pre meditation can easily be gathered from this fact. Moreover, considering the acquaintance between them, girl who is too young to sense any danger has kept faith on applicant who is a person double age to her. In such circumstances, only to the reason that holding is to be recovered from him, no pre arrest bail can be extended to him. In absence of anything to infer that this could be case of false implication, grant of pre arrest bail would send a wrong message in the society, encouraging subjecting minor girls to such situation. This Court therefore is not inclined to grant anticipatory bail to applicant. Hence the application is rejected.

(R. M. JOSHI, J.)

ssp