

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

ANTICIPATORY BAIL APPLICATION NO. 1272 OF 2023

**KISHAN S/O MADHAV MUKNAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. R. D. Biradar, Advocate for the applicant (absent)
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. R. S. Patil, Advocate for respondent No.3.

CORAM : R. M. JOSHI, J.

DATE : 19/10/2023

ORDER :-

1. This anticipatory bail application was heard extensively and this Court has shown its disinclination to grant relief to the applicant on 15th September, 2023. On that day the learned counsel for the applicant sought time to take instructions from the applicant for withdrawal of the application. Thereafter the matter was adjourned to 5th October, 2023, however, none appeared for the applicant. Even today none appeared for the applicant. Learned counsel for the respondent No.3/informant submits that the applicant is already heard on merit and hence the appropriate order be passed.

2. Applicant apprehends arrest in connection with Crime No.

147/2023 registered with Kandhar Police Station, Tq. Kandhar, Dist. Nanded for the offences punishable under Section 354-B of IPC and Sections 8 and 12 of POCSO Act.

3. The informant is mother of a minor girl/victim. It is reported by the informant that on 20th May, 2023 at about 3.00 p.m her daughter was playing on the road in front of the house. After some time she came back home crying and was also frightened stage. She was accompanied by brother of informant. When informant questioned to his brother as to the reason for which she is crying, brother of the informant told her that he heard cries of the small girl in the house of applicant. Hence he went there and found that the applicant had removed his clothes and also there were no clothes on the person of girl. He therefore brought the girl home.

4. Learned counsel for the applicant submits that the applicant is aged about 65 years and he is a cancer patient and that this is not the case wherein any recovery has to be done at the instance of the present applicant and hence it is a fit case for grant of anticipatory bail.

5. Learned APP and learned counsel for the victim opposed the application by submitting that the act committed by the applicant is an offence under Section 8 and 12 of POCSO Act. It is submitted that the offence is serious in nature and hence merely because nothing is to be recovered at the instance of the applicant, he is not entitled for pre arrest bail.

6. For the purpose of grant or refusal of the anticipatory bail, the recovery of any incriminating material from the accused is not sole criteria. The Court is required to consider seriousness of the crime. Herein in this case there is absolutely nothing on record to indicate that the parties are in enimical terms in order to consider this to be a case of false implication. The statement of the victim clearly indicates prima face the occurrence of incident in question. Having regard to the nature of offence and seriousness thereto, the applicant is not entitled to grant of pre arrest bail. Hence the application stands dismissed.

(R. M. JOSHI, J.)

ssp