

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

ANTICIPATORY BAIL APPLICATION NO.1279 OF 2023

DATTA LAXMAN ADAGALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. M. P. Gandle
APP for Respondent No. 1: Mrs. G. L. Deshpande
Advocate for Respondent No. 2 : Mr. A. S. Gandhi

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CORAM : R.M. JOSHI, J

DATE : NOVEMBER 07, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 221 of 2023 registered with Shivajinagar Police Station, Dist. Beed for the offences punishable under Sections 354, 354-A, 354-B, 323, 504, 506 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act.

2. First informant is the step daughter of the Applicant. It is stated in the FIR that Applicant married to her mother prior to four years. It is also referred therein that in the year 2022 her mother had lodged complaint against Applicant for offence under Section 376 of IPC. It is claimed that on 04.05.2023 Applicant has outraged her modesty.

3. Learned Counsel for the Applicant submits that conduct of the mother of the informant is more than sufficient to demonstrate that this could also be a case of false implication. He drew attention of the Court to the judgment dated 28.03.2023 passed in Special POCSO Case No. 80/2022 wherein though allegations were made by the mother of the informant that rape was committed on her and modesty of the informant herein was also outraged, they did not support the said allegation and they recited from previous statement. It is his submission that present offence is also registered in order to falsely implication him in this crime. He contends that it is not a case wherein custodial interrogation of the Applicant is necessary.

4. Learned Counsel for the informant opposed the application initially by contending that in Special POCSO case No. 80/2022 informant and her mother were pressurized and they did not support the case of prosecution. Subsequently, it is sought to be argued that Applicant had assured them to take care, which this could be seen from the said statement. He drew

attention of the Court to the agreement between the parties dated 19.06.2020 wherein the Applicant had agreed to take care to the mother of the informant and her children begotten from first marriage. It is contended that only on the assurances given by the Applicant, no objection was given for the grant of bail to the Applicant by mother of the informant by filing her affidavit. He placed reliance on the judgment of Hon'ble Apex Court in case of Sumitha Pradeep Vs. C. K. Arun Kumar and Another, 2022 DGLS(SC) 1415.

5. Learned APP opposed the application by relying upon the investigation papers which included the statement of mother of the informant as well as informant herself.

6. There cannot be any dispute about the proposition that bearing in mind the seriousness of the crime, Application for anticipatory bail needs to be decided. Further, at the same time, if the Court *prima facie* finds that this could be a case of utter false implication then discretion should be exercised by the Court. Herein this case, the record indicates that the mother of the informant from time to time has exerted

the pressure on the Applicant by lodging one or the other complaints against him. The complaint lodged in respect of incident of 15.05.2022 in Crime No. 149/2022 indicates that there was allegation levelled against the Applicant by mother of the informant herein that the Applicant committed rape on her and that he outraged modesty of her daughter. The judgment delivered in Special POCSO Case No. 80/2022 shows that both informant as well as her mother have resiled from their statement, which has resulted into acquittal of the Applicant. Though, it is sought to be contended that due to pressure exerted by the Applicant, they recited from the said statement, there is absolutely nothing on record to indicate so. On the contrary, this Court finds substance in the contention of learned Counsel for the Applicant that the informant has been used by her mother in order to lodge report against present Applicant.

7. Having regard to the facts brought on record, this Court has reason to believe that this could also be one of false cases lodged at the instance of mother of the informant. Having regard to these facts, coupled

with the fact that no custodial interrogation of the Applicant is necessary, liberty of the Applicant is protected. Hence, application is allowed by confirming interim order dated 04th August, 2023.

(R. M. JOSHI, J.)

Malani