

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1986 OF 2023

Ashutosh Hindurao Mane

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep U. Nikam a/w Mr. Prasad Avhad - Advocate for the Applicant

Mr. H. J. Dedhia - APP for the Respondent-State

API Avinash Mane – Satara City Police Station

CORAM : S. M. MODAK, J.

DATE : 17th AUGUST, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP. Though, not the investigating officer but some officer from the Satara City Police Station is present.

2. When the Police got information that on ground floor of the Preeti complex in which the business by name Hidden cafe is running and boys and girls are visiting there and indulging into activities which are against law of decency, they visited the cafe on 21/04/2023 at 2.30 p.m.. They noticed six boys and six girls sitting there and they have hugged each other. At the same time, one social worker by name Pooja Bansode came there alongwith others and

insisted for an action. The Manager of that cafe is one Vikram Nandkishor Nikam. Whereas present Applicant is owner.

3. During inquiry with the boys and girls, it was found that two girls were minors. Their statements are recorded. Police have registered an offence bearing C.R. No. 330 of 2023 under Sections 109, 290 of the Indian Penal Code and under Sections 16, 17 and 18 of the Protection of Children from Sexual Offences Act which deals with abetment of an offence. Later on, the Police have added Section 8 of the Protection of Children from Sexual Offences Act which deals with punishment of the sexual assault.

4. Mr. Nikam submitted that unless and until the victim makes a Complainant of sexual assault and unless and until an act alleged falls within the purview of Section 7, those provisions cannot be invoked. The boys who have indulged into such acts with those two girls are accused no. 1-Prakash and accused no. 2-Shubham.

5. Mr. Nikam submitted that the present Applicant was not present on the spot and his custodial interrogation is not required. Other arrested accused were already granted bail by Court of the Additional Sessions Judge, Satara.

6. Learned APP invited my attention to the investigation papers which consist of spot panchnama, certain condoms and

photos of man and women were seized from the spot.

7. Furthermore, it was disclosed that visitors used to make an entry in the notebook and used to pay certain charges. The location of the cafe is on the ground floor. It is true that for an offence under Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act, it is immaterial whether the victim has consented or not. The submission of Mr. Nikam on the basis of the statement of those victims that they are willing to, it cannot be accepted.

8. No doubt the papers reveal that boys and girls are indulging into certain activities which are against law of decency. Except two all are major.

9. I think custodial interrogation of the Applicant is not required. Just because the act alleged is contravening the provision of certain sections and it is against law of decency, bail cannot be refused on that ground. Ultimately, the Court is bound by parameters for grant of anticipatory bail.

10. Law will take its own course so far as trial is concerned and so far as any action warranted as per the provisions of any other law. Be that it may, the Applicant deserves to be released on bail in case of arrest. Hence following Order:-

ORDER

- (i) Anticipatory bail application is allowed.
- (ii) In case of arrest in connection with C.R. No. 330 of 2023 registered with Satara City Police Station for the offence punishable under Sections 109, 290 of the Indian Penal Code and under Sections 16, 17 and 18 of the Protection of Children from Sexual Offences Act, the Applicant be released on furnishing Personal Bond and Surety Bond in sum of Rs. 25,000/-.
- (iii) He is directed to give attendance to the Satara City Police Station on 23/08/2023, 30/08/2023 and 06/09/2023 from 10.00 a.m. to 12.00 noon and thereafter as and when required.
- (iv) Applicant shall not threaten the prosecution witnesses.
- (v) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail.

11. It is made clear that these are my prima-facie observations.

12. Application is disposed of in the aforesaid terms.

13. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]