

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

ANTICIPATORY BAIL APPLICATION NO.988 OF 2023

1) Chhaya Eknath Jagdhane
2) Eknath Digambar Jagdhane
3) Vanita Nagnath Sable ...Applicants

Versus

The State of Maharashtra ...Respondent

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Ms Vilasini B. i/b. Mr. Jaydeep Mane for the Applicants.
Mr. S.V. Gavand, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th APRIL, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R. No.266 of 2022 registered with Kamati Police Station, Solapur, for the offences punishable under Sections 376(2)(n), 376(a) (b), 376(2)(l) r/w 34 of the IPC, Section 9 of the Child Marriage Restraint Act, 1929 and Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Ms Vilasini B., learned counsel for the Applicants and Mr. S.V. Gavand, learned APP for the Respondent -State. I have perused

the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime came to be registered pursuant to the report lodged by the victim, who is a child within the meaning of Section 2(d) of the Protection of Children from Sexual Offences Act, 2012. The victim has alleged that her mother got her married to the son of the Applicant Nos.1 and 2 on 22/08/2012. The victim was 11 years and 8 months old as on the date of the marriage. She has stated that the Applicants herein had attended the marriage. After her marriage she started residing in her matrimonial home alongwith her husband and the Applicants herein. She has stated that Sagar, the son of the Applicant Nos.1 and 2 had sexual relations with her after her marriage.

4. The statement of the victim indicates that her mother had not told her about the marriage. About 8 days prior to marriage, her mother took her to the house of Applicant No.3, the maternal aunt of her husband. The other Applicants were present at the house of Applicant No.3. About one day prior to the incident her mother once again took her to the house of the Applicant No.3, the maternal aunt of her husband. The Applicant No.1 and other relatives were present in

the house. They made her wear green bangles and performed Haldi Ceremony. It is stated that the victim realised that her mother had arranged her marriage. She has further stated that thereafter she started residing with Applicant Nos.1 and 2. She has stated that her husband assaulted her whenever she refused to have physical relationship with him.

5. The medical record prima facie reveals that the victim was subjected to sexual assault. The victim was barely 11 years of age. The nature of the offence would not justify grant of pre-arrest bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)