

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

ANTICIPATORY BAIL APPLICATION NO. 1927 OF 2023

1. Bhalchandra Pandurang Mangela and
2. Amit Bhalchandra Mangela ...Applicants
vs.
The State of Maharashtra and Anr. ...Respondents

Mr. Akash Pandey - Advocate for the Applicant
Mr. S. R. Agarkar - APP for the Respondent-State
PSI Sachin Ubale – Arnala Police Station, Mira Bhayander Vasai Virar

CORAM : S. M. MODAK, J.

DATE : 17th JULY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP. Investigation officer is present.

2. Initially, offence is registered under Section 326, 324, 323 and 504 of the Indian Penal Code with Arnala Police Station on 24/05/2023 against one accused by name Himanshu Mangela.

Though there is an allegation that his friend has also assaulted the first informant with fists and blows, they are not named in the F.I.R..

The accused Himanshu Mangela arrested and granted bail by the Court of the JMFC. The present Applicant No. 1-Bhalchandra Mangela is father of accused Himanshu Mangela and Applicant No.

2- Amit Mangela is brother of the Himanshu Mangela. Anticipatory

bail is claimed on the following grounds:

- a) Initially, there is no allegation of commission of the offence under Section 8 and 12 of the Protection of Children from Sexual Offences Act. They were added after the supplementary statement of the victim that was recorded on 03/06/2023.
- b) These Applicants are not named in the F.I.R. and there is no allegation that these Applicants have outraged modesty of the victim.
- c). There is counter F.I.R. registered by accused Himanshu Mangela with the same Police Station on 24/05/2023 bearing C.R. No. 200 of 2023. It is under Sections 323, 326 and 504 of the Indian Penal Code against the present first informant-Nayan Kalushte.

3. With the assistance of the learned APP, I have gone through the investigation papers. He submitted that let notice be issued to the father of the victim. He is right that the Act provides for hearing the victim or the guardian if the offence is under the provisions of the Protection of Children from Sexual Offences Act. However the Court cannot overlook the facts and circumstances.

4. I am not going into the issue whether the victim in her original statement dated 27/05/2023 has stated about the allegations about outraging modesty or not, but the fact remains that

in her supplementary statement of 03/06/2023, she has levelled allegation against the person named in the F.I.R. that is Himanshu Mangelaven at the time of F.I.R., they were not knowing the name of the accused and they came to know about his name when they went to Police Station for lodging of the complaint. Even supplementary statement, there is no statement about outraging modesty by these two applicants.

5. So I think application can be finally decided without issuing notice to the victim or her father.

6. Considering these allegations, I think that the custodial interrogation of the Applicants is not required. There is no allegation that even they have beaten the first informant with any weapon. The allegation of use of weapon is there against arrested accused Himanshu Mangela. Furthermore, there is counter version of the incident and Himanshu Mangela has lodged complaint against the present first informant.

7. The incident took place on the background of urinating by the dog belonging to the first informant on one tempo belonging to the Himanshu Mangela. That dog belongs to the first informant on that pretext there were abuses and thereafter the first informant assaulted accused Himanshu Mangela with the help of the rod and

the allegation of the outraging modesty of the victim is there against him only. So I am inclined to pass following order:-

ORDER

- (i) Anticipatory bail application is allowed.
- (ii) In case of arrest in connection with C.R. No. 199 of 2023 registered with Arnala Police Station for the offence punishable under Sections 326, 324, 323, 354, 504 of the Indian Penal Code and Sections 4,8 and 12 of the Protection of Children from Sexual Offences Act, the Applicant No. 1- Bhalchandra Pandurang Mangela and Applicant No. 2- Amit Bhalchandra Mangela be released on furnishing Personal Bond and Surety Bond in sum of Rs. 25,000/- each.
- (iii) Applicants are directed to give attendance to 02nd and 04th Thursday from 10 to 12 noon until filing of the charge-sheet.
- (iv) They are directed not to threaten the prosecution witnesses.

8. It is made clear that the observations made herein are prima facie.

9. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]