

the teachers in the school run by the Municipal Corporation. They know each other for last 14 years. The incident in respect of which FIR came to be lodged took place on 18th March 2023, at about 11.30 am in the premises of the school. When the first informant had gone to toilet, by taking advantage, the present Applicant caught hold the first informant from backside and accordingly, outraged her modesty. There is background to this incident. On 4th October 2022, the first informant was appointed as the head of Cluster Resource Centre and on account of that the Applicant started harassing her purposefully.

3. The incident of 18th March 2023, is reported to the Nizampura police station on 4th May 2023. Initially, the offence under Section 354, 354A and 506 of IPC was registered. Later on, on the basis of supplementary statement recorded of the victim on 30th May 2023, the police have added Section 376 of IPC. The Court of Additional Sessions Judge, Thane as per order dated 27th June 2023, was pleased to reject the anticipatory bail application of this Applicant. There is no issue about rejection of the application. That is part of discretion. This Court is having parallel jurisdiction. But what is objectionable is reproducing each and every particulars what the first

informant has said about the incident of sexual intercourse. In para 11 of the said order, the learned Judge has reproduced what the first informant has said. He has reproduced each and every word, in fact, he ought not to have reproduced those particulars. It is important to note that the victim of sexual assault and harassment needs certain protection. Even on some occasion their identity need to be hidden. In fact those particulars need to be struck from the order. To that extend necessary directions need to be issued to the concerned Court.

4. According to learned Advocate for the Applicant, this addition is by way of after thought and according to him there is background to this false accusation. He invited my attention to the following documents :

- (a) The letter from the Head Master dated 26th June 2023, thereby certifying that the present Applicant attended the school and meeting of Maharashtra State Urdu Teachers Association. It was held on 18th March 2023, when the first informant attended school on that date. The banners of that association, the minutes of meeting dated 18th March 2023 are at page 68.

- (b) Copy of the complaint made by the Association to Deputy Commissioner (Education) to delete their school from cluster resource centre No.7 and include in Centre No.10. It is for the reason that the first informant is harassing other teachers (page 78).
- (c) Copy of the letter dated 9th January 2023, sent by the Applicant to the Administrative Officer of the Corporation thereby protesting conduct of the first informant (page 83).
- (d) The letter is written by present Applicant to the Commissioner dated 20th March 2023, asking him to maintain status quo.

There are few other complaints, more so on the same line.

5. As against this learned Advocate for the first informant submitted that the present Applicant is having background of committing such incidents earlier also. She placed reliance on the following documents :

- (a) Copy of the complaint lodged by National Congress party dated 17th April 2023, addressed to the Deputy Commissioner of Police, Bhiwandi to take action against present Applicant and one Naseer Shaikh for misleading the President of the party.

- (b) Copy of the complaint dated 12th April 2023, filed by the same Political party addressed to the Commissioner, Bhiwandi Municipal Corporation, thereby initiating disciplinary action against certain teachers including present Applicant.
 - (c) Copy of the show cause notice issued by the Maharashtra State Urdu Education Institution addressed to the present Applicant thereby asking explanation for the allegations published against him in the newspaper.
 - (d) Copy of the affidavit dated 27th June 2023, filed by one Nasim Bano Kalim Ahmed Momin thereby protesting conduct of the Applicant.
 - (e) Copy of the complaint filed by Nationalist Congress party dated 3rd July 2023, addressed to the Commissioner, Bhiwandi Nizampur Municipal Corporation for discontinuing services of the present Applicant.
6. Learned Advocate for the Applicant also invited my attention to the observations in the order and more specifically para 7 wherein the trial Court has taken note of the complaint made by the Applicant to teachers to keep watch on victim and even one teacher

has shown readiness to submit an affidavit.

7. Learned APP invited my attention to the supplementary statement and the medical examination of this Applicant.

8. There may be dispute amongst the first informant and the Applicant on account of administration of the school, the question is whether the custodial interrogation of the present Applicant is required. The present Applicant and few of the teachers may be having some complaint against behaviour of the present Applicant but Court has to decide the Application on the basis of the averments in the FIR and facts disclosed during investigation. It is matter of record that even though alleged incident, as stated in the supplementary statement, took place on 18th March 2023, the fact remains that it was not reported at the earliest when the FIR is lodged. The victim-first informant is already examined by the doctors. I have perused those papers. This is not stage to decide whether these allegations are true or not, but the fact remains that custodial interrogation of the Applicant is not required. Furthermore, these allegations were not made immediately, even after FIR is recorded. So the case for anticipatory bail is made out. The Applicant can be directed to give attendance. Furthermore, he

can be asked to stay away from Bhiwandi taluka. Hence, the following order is passed :

O R D E R

- (a) In the event of arrest, the Applicant-Nabeel Abdul Hamid Momin be released on bail in connection with C.R. No.0157 of 2012, registered with Nizampura police station for the offences punishable under Sections 354, 354A, 506 and 376 of the IPC, on furnishing personal bond and surety bond of Rs.25,000/-.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant is directed to give attendance to the Nizampura police station on 29th July 2023, 5th August 2023 and 12th August 2023, from 3 pm to 5 pm and thereafter as and when called by the police.
- (d) The Applicant is directed to stay away from the Bhiwandi taluka and is permitted to enter Bhiwandi taluka only for purpose of attending the Court and attending the school.
- (e) Till filing of the charge-sheet, the Applicant is directed not to enter Bhiwandi Revenue taluka. During that period he is

directed to furnish alternate address to the police.

- (f) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.
- (I) Copy of this order be send to the concerned Judge for information.
- (j) Further he is directed to expunge the particulars reproduced by him in paragraph no.11 in the Order which are stated by the victim in her supplementary statement.
- (K) Copy of this order may also be send to Maharashtra Judicial Academy so that they can apprise the Judges taking training about their responsibilities on this aspect.

9. Application is disposed of accordingly. Interim Application No.2640 of 2023 is also disposed of.

10. These are my *prima facie* observations and the trial Court may not be influenced by that.

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

[S. M. MODAK, J.]