

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 366 OF 2023

Akash S/o Vijay Solanke

..VS..

State of Maharashtra through PSO, P.S. Khangaon City, Dist. Buldhana and Another

WITH

CRIMINAL APPLICATION (ABA) NO. 285 OF 2023

Komal Shubham Matkar

..VS..

State of Maharashtra through PSO, P.S. Khangaon City, Dist. Buldhana and Another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.V. Sirpurkar, Advocate for applicants.

Mr. I.J. Damle, APP for non-applicant No.1/State.

Ms. Mohini A. Sharma, Advocate (appointed) for non-applicant
No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JULY 31, 2023

Leave is granted to correct the name of the
applicant in Criminal Application (ABA) No. 366/2023.

2. Heard.

3. Both these applications under Section 438 of the
Code of Criminal Procedure filed by the applicants are for
grant of anticipatory bail in the event of their arrest in
connection with Crime No.177/2023 registered with
Police Station Khamgaon City, District Buldhana for the
offence punishable under Sections 354, 354-D, 506 read
with Section 34 of the Indian Penal Code and Section 8,

12 and 17 of the Protection of Children from Sexual Offence Act, 2012.

4. The accusations against the applicant in Application No.366/2023 namely Akash Vijay Solanke is that the informant got acquaintance with him and they were communicated with each other. It is alleged that he used to follow her and was insisting her talk with him otherwise he will do something to himself only and he consumed the poison. It is further alleged that on 15.02.2023 at about 07.00 am. when the victim girl proceeded to attend the school, the applicant restrained her and insisted her to come along with him and took her at Shegaon and held her hands with ill intention. In the evening, he dropped her at her home. As far as the allegations against the another applicant Komal Shubham Matkar in Application No. 285/2023 is concerned, is only to the extent that she insisted the informant to perform marriage with the Akash. On the said report the police have registered crime against the present applicants.

5. Both the applications are strongly opposed by the State on the ground that the applicant Akash with ill intention took the victim girl by showing her knife on his motorcycle and sexually harassed her. On the basis of these allegations the crime is registered against the present applicants. The custodial interrogation of the present applicants is required and prays for rejection of the applications.

6. The said applications are strongly opposed on behalf of the victim also with similar contention that there is a *prima facie* material against both the applicants and applications deserve to be rejected.

7. Having heard learned counsel for the applicants Mr. S.V. Sirpurkar, the learned APP Mr. I.J. Damle for the State and Ms. Mohini Sharma, the learned counsel appointed for non-applicant No.2 – victim girl.

8. Perused the investigation papers. From the statement of the victim girl only allegations against the applicant Komal is that she abetted present applicant – co-accused i.e. Akash and insisted the informant to perform the marriage with said Akash, except these allegations her present was not there on 15.02.2023. As far as the applicant Akash is concerned, it is alleged that he took her on his motorcycle and held her hands with ill intention. Considering the allegations as it is, the offence under Section 12 of the Protection of Children from Sexual Offences Act, 2012 would be attracted.

9. Considering the allegations, physical custody of both the applicants is not required. As far as the recovery of the motorcycle is concerned, some conditions can be imposed on the applicant Akash to produce the same before the Investigating Officer. Considering the nature of the allegations, the custodial interrogation of the present applicants is not required and both the

applications deserve to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

- (i) Criminal Application (ABA) Nos.366/2023 and 285/2023 are allowed.
- (ii) The applicants – Akash S/o Vijay Solanke and Komal Shubham Matkar are released on anticipatory bail in event of their arrest in respect of Crime No.177/2023 registered with Police Station Khamgaon City, District Buldhana for the offence punishable under Sections 354, 354-D, 506 read with Section 34 of the Indian Penal Code and Section 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 on executing PR. bond of Rs.25,000/- each with one solvent surety in the like amount.
- (iii) The applicant Akash S/o Vijay Solanke shall produce his motorcycle before the Investigating Officer on 07.08.2023 and the said period will be considered as his custody for the purpose of Section 27 of the Indian Evidence Act.
- (iv) The applicants shall not induce, threat and pressurize any witnesses who are connected with the alleged crime.

- (v) The applicants shall furnish their cellphone numbers and address with the address proof.
 - (vi) The applicants shall not come into contact with the victim in any manner till the disposal of the trial against both the applicants.
10. Both the applications are disposed of.

CRIMINAL APPLICATION (APPP) NO. 898/2023 IN
CRIMINAL APPLICATION (ABA) NO. 366/2023
AND
CRIMINAL APPLICATION (APPP) NO. 770/2023 IN
CRIMINAL APPLICATION (ABA) NO. 285/2023.

In view of disposal of the anticipatory bail applications, these applications does not survive and hence it is disposed of.

(URMILA JOSHI-PHALKE, J.)

Kirtak