

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

CRIMINAL APPLICATION (ABA) NO.375 OF 2023

Aashish s/o Ravindra Janabandhu

Vs.

State of Maharashtra, through Police Station Officer, Avdhutwadi, Yavatmal 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. M. V. Rai, Advocate for applicant.
Mr. S. M. Ghodeswar, APP for respondent No.1/State.
Mr. S. P. Chaware, Advocate for respondent No.2/Victim.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/08/2023

1. Present application is for seeking anticipatory bail in the event of his arrest in connection with Crime No.746/2023 registered with Police Station, Avdhutwadi, District Yavatmal for the offences punishable under Sections 354, 354-D, 341 and 506 of the Indian Penal Code and Sections 8 and 10 of the Protection of Children From Sexual Offences Act, 2012.

2. The applicant is apprehending arrest at the hands of police. The mother of the victim lodged report against the present applicant, alleging that the present applicant who is her neighbour and there were some money transactions between them and on that count, one complaint was also registered by mother of the applicant against her. On 27.05.2023 at about 7.15

hours, the present applicant entered in her house and outraged modesty of her minor daughter. It is further alleged that on the day of incident, the victim was proceeding to meet her friend, at that time also the present applicant came on motorcycle and caught hold her and outraged her modesty. On the basis of the said report, police have registered the crime against the present applicant.

3. As per contention of the applicant that he is a Teacher by profession and serving in a residential School of deaf and dumb situated at Ralegaon. He married recently and just started his carrier in residential School. There was a previous dispute between them, and his mother has lodged report against the present informant. In fact, on the date of the incident, he has left the house at 7.15 hours itself and his other family members were also not at home. Merely because there is some dispute pending between the parties on account of money transactions, this false report is lodged against the present applicant. Now, the investigation is completed and chargesheet is filed. The custodial interrogation of the present applicant is not required. He is already protected by granting ad-interim anticipatory bail. He has cooperated with the investigating agency, therefore the bail granted to him be confirmed.

4. The learned APP strongly opposed the application on the ground that the offence alleged against the present applicant is serious in nature and therefore, the application deserves to be rejected.

5. The learned Counsel for the respondent No.2 also objected the application on the ground that there is an apprehension of tampering the witnesses and hence, application deserves to be rejected.

6. Having heard the learned Counsel for the applicant, learned APP for the respondent No.1/State and learned Counsel for the respondent No.2. Perused the recitals of the FIR, and contention of the applicant, it is apparent that there is previous dispute between the parties and previous complaint is also lodged by the mother of the present applicant. The applicant has also produced on record CCTV footage and photograph of the same to show that he had left the house to celebrate the birthday of one of the family member i.e. his wife and he was not at home at the time of incident. As far as his presence is concerned, it is a matter of evidence. At this stage, now the investigation is completed and chargesheet is filed. The applicant has cooperated with the investigating agency and the Investigating Officer has completed the investigation. Thus, physical custody of the present applicant is not required. The Hon'ble Apex Court in **Satender Kumar Vs. Central Bureau of**

Investigation reported in **(2012) 1 SCC 40**, considered the aspects and held that even if cognizable offence is registered, arrest of the person is not mandatory. Considering the allegation against the present applicant, his custodial interrogation is not required. In view of that, the ad-interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Aashish s/o Ravindra Janabandhu** is released on anticipatory bail in the event of arrest in connection with Crime No.746/2023 registered with Police Station, Avdhutwadi, District Yavatmal for the offences punishable under Sections 354, 354-D, 341 and 506 of the Indian Penal Code and Sections 8 and 10 of the Protection of Children From Sexual Offences Act, 2012, on his executing PR bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount.
- (iii) The applicant shall attend Police Station as and when required for investigation purpose.
- (iv) The applicant shall furnish his mobile/ phone number, along with his address proof, before the Investigating Officer.

(5)

21.ab.375.2023

(iv) The applicant shall not induce, threat or promise to any witnesses, who are acted with the alleged crime.

(URMILA JOSHI-PHALKE, J.)

Sarkate