



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.530 OF 2023

Ghanshyam s/o Ashokumar Dhankani and another

Vs.

State of Maharashtra, through PSO, Police Station, Khadan, Taluka and
District Akola and another

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

Court's or Judge's orders.

Shri R.R. Vyas, Advocate for applicants.
Shri A.M. Kadukar, APP for non-applicant no.1/State.
Shri S.M. Mohta, Advocate for non-applicant no.2.

CORAM : M.W. CHANDWANI, J.

DATE : AUGUST 24, 2023.

By the present application, the applicant is seeking pre-arrest bail in connection with Crime No.303/2023 registered with Police Station, Khadan, Taluka and District Akola for the offences punishable under Sections 377, 384, 506 read with Section 34 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

2. Heard Shri R.R. Vyas, learned counsel for the applicant, Shri A.M. Kadukar, learned APP for the non-applicant no.1/State and Shri S.M. Mohta, learned counsel for the non-applicant no.2/victim.

3. The allegations are that the main accused along with the present applicants, by threatening, extorted Rs.8 to 9 lakhs from the informant's nephew (victim). It is alleged that

the victim was also sexually assaulted by the co-accused.

4. It is the contention of the learned counsel for the applicants that the applicants have been falsely implicated in this case. The accused along with the applicant are doing business of transferring the amount on the nominal charges and the victim approached the main accused i.e. brother of the applicant no.1 to get money transferred to different persons' accounts and accordingly, the money has been transferred. He submits that the applicants did not know that the amount was brought by the victim from the informant's house without intimating the informant. He submits that just to recover the amount which has been transferred by the applicant at the instance of the victim, this false complaint of extortion as well as sexual assault under the provisions of Indian Penal Code, 1860 and Protection of Children from Sexual Offences Act, 2012 has been lodged. He submits that the complaint was lodged by the co-accused stating that true facts with the Superintendent of Police in the year 2021. He further submits that there is a delay in loading the FIR. According to him, the alleged incident is of 2021, and the FIR came to be lodged in 2023.

5. The sum and substance of the arguments of the learned counsel for the applicant is that just to set off the loss that has occurred to the informant by the act of the victim, the present FIR has been lodged just to see that the informant could blame the applicants and other co-accused.

6. Per contra, learned APP on behalf of the State assisted by the learned counsel for the non-applicant no.2/victim, vehemently submits that there is a prima facie case against the present applicants. The applicants are involved in extortion of huge amounts from the victim. The victim was sexually assaulted by the co-accused- Ravi Dhankani. There is specific allegation against the present applicants that they extorted Rs.50,000/- each from the victim by threatening him. The sum and substance of the arguments of the learned APP and learned counsel for non-applicant no.2 is that there is a prima facie case against the applicant and the amount is yet to be recovered, hence prays for rejection of the bail application.

7. A perusal of the case diary would show that the statement of the informant, wherein he stated that the co-accused had given a mobile phone, headphones, powerbank, etc. to the victim and asked the victim to bring Rs.10,000/-. Accordingly, the victim brought Rs.10,000/- by stealing from the house of the informant and there are also allegations that thereafter time to time on the say of co-accused and the applicants extorted from the victim the amount to the tune of Rs.8 to 9 lakhs. The only allegations against the present applicants are that they extorted Rs.50,000/- each from the victim by threatening. The allegation of extortion and of sexual assault on the victim is against the co-accused who is already arrested.

8. It appears that on 25.05.2021 the arrested accused Ravi Dhankani had lodged complaint against the complainant and one Suraj Patil for threatening him to involve him in false case. In the said enquiry, the statement of the complainant and co-accused Ravi Dhankani has been recorded. In his statement, in the said enquiry, the informant has admitted that the victim boy took the amount from his house and went to the shop belonging to the co-accused and the applicants, to get the said amount transferred on various other mobiles on 05.04.2021, 10.04.2021, 11.04.2021, 12.04.2021, 16.04.2021. Therefore, giving the colour of extortion to these transactions by the informant cannot be ruled out. Though alleged incident of sexual assault and extortion was informed to police in year 2021 itself, the offence is registered in the year 2023. This is also one of the consideration. Taking into considerations of overall factual score of the matter and fact that the main allegation of sexual assault of minor is not against the present applicants, in my view, a case is made out for grant of anticipatory bail. Hence, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. In the event of arrest in Crime No.303/2023 registered with Police Station, Khadan, Taluka and District Akola for the offences punishable under Sections 377, 384,

506 read with Section 34 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, **applicants – (1) Ghanshyam S/o Ashokumar Dhankani and (2) Ramesh S/o Pannalal Makhija** be released on anticipatory bail on furnishing P.R. Bond in the sum of ₹50,000/- each with one or two solvent sureties in the like amount.

iii. The applicants shall attend concerned Police Station on every Monday between 10 am to 12 noon for four weeks and shall cooperate in the investigation.

iv. The applicants shall furnish their cell phone numbers and address with address proof with the concerned Police Station.

v. The applicant shall not tamper with the prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the application is disposed of.

JUDGE