



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

5 ANTICIPATORY BAIL APPLICATION NO. 1122 OF 2024

1. Mahadev Dattu Kamble
2. Chandrabhaga @ Chandrakala Mahadev Kamble
3. Ramu Bapurao Kamble
4. Panchishila Ramu Kamble
5. Anand Ramu Kamble

..APPLICANTS

-VERSUS-

1. State of Maharashtra
2. XYZ

..RESPONDENTS

Advocate for Applicants : Mr. V.G. Kodale
APP for Respondent/State: Ms.V.S. Chaudhari
Advocate for respondent No.2 : Mr.Ajit Chormal

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 29th July, 2024.

P.C.:

1. Mr.Ajit Chormal, learned counsel is appointed to represent the cause of respondent no.2.
2. The applicants apprehend arrest in connection with FIR No.0119 of 2024 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under sections 376(2)(j), 376(2)(n), 376(3) read with 34 of the Indian Penal Code (For short, "IPC"), under sections 4 and 6 of the POCSO Act, 2012 and sections 9 and 11 of the Prevention of Child Marriage Act.
3. It is prosecution's case that one woman was admitted in the hospital for delivery at Mumbai and her age was 17 years 3 months.

The police made inquiry in that case. In investigation, it found that applicant nos.1 and 2, who are real mother and father of the victim, had performed the marriage of victim with applicant no.5. Applicant nos.3 and 4 are the mother-in-law and father-in-law of the victim. It is alleged that all the applicants were aware that victim was below 18 years of age, inspite of that they performed marriage of her with applicant no.5. On receiving the information the police lodged the complaint against the applicants.

4. It is contention of the learned counsel for the applicants that the applicants were not aware that victim was below 18 years of age. Applicant nos.1 and 2 are illiterate persons and victim had affair with applicant no.5 and she had threatened that if the marriage is not performed with applicant no.5, she would commit suicide. On that ground, the marriage was performed. Moreover, the victim is staying with applicant no.5 - her husband and applicant nos.3 and 4. She has no objection to allow the application, hence requested to allow the application.

5. It is contention of the learned APP that at the time of marriage, the victim was more than 15 years age. All the applicants were aware she was minor, inspite of that her marriage was performed. It is serious offence. Due to physical relationship with applicant no.5, the victim has delivered baby child. Their custodial interrogation is required. As the victim was 15 years old, her consent is immaterial, hence requested to

reject the application.

6. The learned counsel representing the victim has stated that the victim has no objection, if application is allowed.

7. I have heard all the learned counsel. Perused the F.I.R. and police papers.

8. It appears that applicant nos.1 and 2 have performed the marriage of victim with applicant no.5. Applicant nos.3 and 4 are mother-in-law and father-in-law of the victim. The victim has delivered baby child. Considering the allegations against the applicants, their custodial interrogation is not required and I pass the following order :-

ORDER

(i) The application is allowed.

(ii) In the event of arrest of the applicants in connection with FIR No.0119 of 2024 registered with Shirur Anantpal Police Station, Dist. Latur for the offences punishable under sections 376(2)(j), 376(2)(n), 376(3) read with 34 of the Indian Penal Code, sections 4 and 6 of the POCSO Act, 2012 and sections 9 and 11 of the Prevention of Child Marriage Act, the applicants be released on executing personal bond in the sum of Rs.15,000/- each with one surety of the like amount by each of them, on the following conditions :-

(a) the applicants shall attend the concerned police station as and when required by the Investigating Officer.

(iii) Fees of Rs.5,000/- be paid to Mr.Ajit Chormal, learned counsel appointed to represent the cause of respondent no.2 through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

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