



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

69 ANTICIPATORY BAIL APPLICATION NO. 1248 OF 2024

ANIL SITARAM FUNDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Sandip Andhale h/f Mr.Dagadkhair Dinkar
Karbhari

APP for Respondent/State : Mr.M.K. Goyanka

Advocate for Respondent no.3 : Mr. Narwade Narayan B.

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 18th September, 2024.

P.C.:

1. The applicant apprehends arrest in connection with FIR No.0496 of 2024, registered with Police Station Pathardi, Tq. Pathardi, Dist.Ahmednagar, for the offences punishable under sections 327, 341, 143, 146, 147, 148, 149, 323, 354, 504, 506 of the Indian Penal Code (For short, "IPC") and sections 8 and 12 of the POCSO Act.
2. It is prosecution's case that on 6th May, 2024 around 3:00 p.m., when the informant was present in her house with her family members, they noticed one JCB in their field. When informant and her family asked the JCB driver not to dig the land as there was chances of breaking up the pipeline laid in the said land, it is alleged that the driver of the JCB called the applicant and co-accused. When the applicant came there, he hugged the informant from her back side and he outraged the modesty of the informant. It is alleged that the informant's mother and grand-mother when tried to intervene, the applicant

pushed them on ground. It is alleged that thereafter, on the same day around 6 p.m., the applicant and co-accused came at the house of the informant and threatened her and her family members of dire consequences if they reported to the police. It is alleged that thereafter at 7:00 p.m., the applicant came to the house of the informant and abused the mother of the informant and snatched away necklace from her neck.

3. It is contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case due to land dispute with informant's family. The allegations against the applicant are baseless. The allegations against the applicant are that the applicant hugged the informant from her back side. Only to harass the applicant false complaint is filed against the applicant. The learned counsel further submitted that the applicant had filed complaint on 7th May, 2024 against the father of the informant under section 327 and other sections of the IPC. To counter it the present complaint is filed. Considering the allegations against the applicant, his custodial interrogation is not required and requested to allow the application.

4. It is the contention of the learned APP along with learned counsel for respondent no.3 that the applicant abused respondent no.3 and her family members. The applicant outraged the modesty of respondent no.3. He has snatched away gold necklace from the neck of informant's mother. The informant is minor. The sections of POCSO

Act are applied against the applicant. Considering the allegations against the applicant, his custodial interrogation is required and requested to reject the application.

5. I have heard both the learned counsel. Perused the F.I.R. and police papers produced on record.

6. It appears from the record that on 7th May, 2024, the applicant has lodged the complaint against the informant's father under section 327 of the IPC. Thereafter, the present complaint is filed against the applicant. The allegations against the applicant are that he hugged the informant from her back side and outraged her modesty and he snatched the golden necklace from the neck of the informant's mother. It appears that the informant has mentioned about the incident at 3:00 p.m., 6:00 p.m. and 7:00 p.m. on 6th May, 2024, whereas the complaint is lodged on 7th May, 2024. The alleged incident of outraging modesty is happened at 3:00 p.m., but no complaint was lodged immediately after the said incident. Though there are allegations against the applicant of snatching of gold necklace from the neck of her mother at 7:00 p.m., but no complaint was lodged immediately after the said incident. When the applicant lodged the complaint against the informant's father thereafter, the present complaint is filed. It appears that the complaint is filed due to dispute between the applicant and informant's family. Considering these facts, the custodial interrogation of the applicant is not required and I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant in connection with FIR No.0496 of 2024, registered with Police Station Pathardi, Tq. Pathardi, Dist.Ahmednagar, for the offences punishable under sections 327, 341, 143, 146, 147, 148, 149, 323, 354, 504, 506 of the Indian Penal Code and sections 8 and 12 of the POCSO Act, the applicant be released on executing personal bond in the sum of Rs.25,000/- with one surety of the like amount, on the following conditions :-
 - (a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

[SHIVKUMAR DIGE, J.]*sga*