



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

67 ANTICIPATORY BAIL APPLICATION NO. 1621 OF 2024

Balaji Manoharrao BhandareApplicant

VERSUS

The Superintendent of Police & othersRespondents

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Mr. S. B. Madde, Advocate for Applicant.

Mr. C. V. Badane, APP for the State.

Mr. A. B. Deshmukh, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 14th OCTOBER, 2024.

PER COURT :

1. Since learned counsel Mr Deshmukh has caused appearance on behalf of the informant, learned appointed counsel is discharged.

2. Applicant apprehends arrest in connection with Crime No. 0571/2024, registered with Gangakhed Police Station, District Parbhani, for the offences punishable under Section 75 of the Bharatiya Nyaya Sanhita and under Sections 8 and 12 of Protection of Children from Sexual Offences Act.

3. First informant is a minor girl/student. She alleged that on 06.09.2024, there was a unit test paper and she was solving the paper by sitting on the last bench. Since she could not understand one question, she asked about the same to the Applicant who is a teacher. He explained the said question to her but thereafter outraged her modesty. The act done by him is specifically stated in the First Information Report. She, therefore, without solving the paper, went home and told about the incident to her grand-mother. Her grand-mother came to the school and scolded the Applicant. After her father came home, he took her to the police station and report came to be lodged.

4. Learned counsel for the Applicant submits that number of villagers have written to the police vouching that the Applicant is innocent. It is his further submission that on behalf of the family of the informant, one villager was threatened.

5. Learned APP opposed the application by citing seriousness of the crime and provisions of Protection of Children from Sexual Offences Act.

6. Learned counsel for the informant submits that there is a presumption about the offence being committed by the accused under Section 29 of the Protection of Children from Sexual Offences Act. He, therefore, contends that the statement of the informant needs to be accepted at this stage.

7. No doubt, Section 29 of the Protection of Children from Sexual Offences Act raised a presumption with regard to the act allege by a minor girl to have been committed by the accused, however, at the same time, evidence which is appearing from the record cannot be ignored. Perusal of the statements of the students from the same school indicates that no incident has occurred as claimed by the informant. One or two students have stated that the Applicant had tried to hit on the head of the informant. This Court is unable to ignore the statement of the children/students of the same class. Though it is sought to be contended by learned counsel for the informant that there is no reason for false implication, at this stage, it could be said that the incident as alleged by the informant might not have occurred in the same manner. There is no criminal history against the Applicant. In view of these facts, liberty of the Applicant deserves to be protected. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of applicant in connection with Crime No. 0571/2024, registered with Gangakhed Police Station, District Parbhani, for the offences punishable under Sections 75 of the Bharatiya Nyaya Sanhita and under Sections 8 and 12 of the Protection of Children From Sexual Offences Act, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount.
- (iii) He shall attend the concerned police station once in a week.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate the investigating agency for further investigation.
- (vii) Learned APP to communicate this order to the concerned Investigating Officer.

(viii) These observations are prima facie observations and the Trial Court is not bound by the same.

(R. M. JOSHI)
Judge

dyb