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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1728 OF 2023

Bharat Nivrutti Bhogade and Another

APPLICANTS

VERSUS

The State of Maharashtra and Another

RESPONDENTS

Mrs. Suvarna M. Zaware, Advocate for the applicants

Mr. D. B. Bhange, APP for respondent - State

Ms. F. M. Kulkarni, Advocate for respondent No.2 (appointed)

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 28th FEBRUARY, 2024

ORDER :

1. Applicants apprehend arrest in Crime No.611 of 2023 registered with Ahmednagar Taluka Police Station, District - Ahmednagar for offence punishable under section 376, 376 (2), 376 (2) (I), 376 (2) (J), 376 (2)(k), 376 (2) (N), 376 (3), 376-C, 376 (1) of the Indian Penal Code and sections 3, 4, 5 (L), (N) 6, 8,9 (L) 10 of POCSO Act and section 9, 10, 11 of Prohibition of Child Marriage Act.

2. Victim has lodged FIR on 8th August, 2023 against husband Dattatray Bharat Bhogade, father in law Bharat Bhogade, mother in law Ashabai Bhogade, father Vasant Pimpale and mother Aarti

Vasant Pimpale, stating that her age is 14 years 3 months and 29 days. After completing her 9th standard, she had taken admission in 10th Standard at Dr. Syrus Poonawala Skill Development School, Pune. In the month of March, 2023, her husband Dattatray and his relatives had been to their house to see her for marriage. They liked her and, therefore, Dattatray showed willingness to marry with victim. Her marriage was performed on 1st June, 2023. On 5th June, 2023, she was brought to the house of her in laws at Sakat (Bk) Taluka – Aashti, District – Beed. On 8th June, 2023, at about 10.00 p.m. though she was refusing, her husband forcibly established physical relations with her. Thereafter, the said acts were repeated by her husband from time to time. Since the physical relations, kept by her husband, became unbearable, victim contacted Pune District Child Rights Action Committee, which intimated Nagar Taluka Police Station on 5th August, 2023. Thereafter, police from the said police station, along with female employees of Child Line Society, came at victim's matrimonial house and took her in their custody.

3. Heard learned advocate for applicants, learned APP for the State and learned advocate appointed for victim. Perused the papers of investigation.

4. Learned advocate for applicants states that accused No.1 –

Dattatray, husband of victim, accused No.4 and 5, Vijay and Aarti, her parents were arrested and they are released on bail. Since nothing is to be recovered from applicants, they are entitled for anticipatory bail.

5. Learned APP submits that charge sheet in the crime is filed on 15th October, 2023 and against the present applicants, it is filed under section 299 of the Criminal Procedure Code.

6. It is the case of prosecution that since the victim was studying in 9th standard at the time of her engagement and marriage, applicants were aware that she is minor and, therefore, they have committed offence punishable under the Prohibition of Child Marriage Act.

7. Offence under sections 9 and 11 of the Prohibition of Child Marriage Act are punishable with imprisonment of two years or fine or both. Except the allegations that applicants were aware that the victim was minor at the time of her marriage, there are no allegations against them. There is no possibility of influencing the victim, as the victim is presently in custody of Child Care Society.

8. Considering the fact that charge sheet is filed and nothing is to be recovered from applicants, their pre-trial custodial

detention is not warranted in the facts of the present case. Applicants were granted interim protection and they have attended the police station and co-operated in the investigation. Application is, therefore, allowed by confirming interim protection granted to applicants.

9. Learned advocate appointed to represent respondent No.2 - victim be paid fees as per scheduled, within four weeks.

[NITIN B. SURYAWANSHI]
JUDGE