

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.60 OF OF 2024

Dipak Akaram Ghadage

...Applicant

versus

The State of Maharashtra and Anr,

....Respondents

Mr. Dilip B. Shinde, for the Applicant.

Ms. Ranjana D. Humane, APP for the Respondent/State.

Mr. N. B. Yadav, HC, Kundal Police Station.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th SEPTEMBER 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No.138 of 2023 registered at Kundal Police Station on 19th October 2023 under Section 364-A, 354, 324, 143, 147, 149, 323, 504, 506, of IPC and under Sections 8 and 16 of the Protection of Children from Sexual Offences Act, 2012.
2. Heard Mr. Dilip Shinde learned counsel for the Applicant and Ms. Ranjana D. Humane, learned APP for the State.

3. The FIR is lodged by the first informant. She has stated that she was residing with her husband, son, daughter and father in law. Her brother-in-law was having a dispute with their relative Uday Ghadage and his family. Cases and counter cases were lodged at Kundal Police Station, Kulus by both the sides. The FIR mentions the incidents on two dates. On 17th October 2023 at about 7.30 P.M., the informant got an information that Uday Ghadage had abducted the informant's daughter aged 14 years and had taken her to his house. The informant rushed there and saw Uday Ghadage was removing the victim's clothes and he touched her inappropriately. Another accused Himmat touched her private parts. Shubham kicked her and Shital pulled her hair.
4. When the informant reached there, Uday Ghadage pulled the informant inside the house, removed her Saree and outraged her modesty by using criminal force. The informant and her daughter were kept confined in the room. They were told that unless the informant's father-in-law paid Rs. 20,00,000/-, they would not be released. On 18th October 2023

and 19th October 2023, they remained confined in that room. On 19th October at about 12.00 P.M., the informant's daughter's shouts were heard by the informant's niece. Therefore, she along with the informant's husband came in front of the Uday Ghadage's House. At that time, Uday Ghadage's group was present in front of the house. There were around 15 to 17 persons standing in front of the house. It is alleged that the Applicant was amongst them. All of them assaulted the husband and the informant with sticks, rods, kicks and fist blows. Because of the commotion, the others from the locality came there and rescued them. They were taken to the hospital. On this basis, the FIR is lodged.

5. Learned counsel for the Applicant submitted that the incident is not true. The Applicant is falsely implicated. He was at a distance of 150 kms, from the place of incident at the time of alleged incident. He submitted that he is falsely implicated because of the family dispute. There were witnesses who had seen the Applicant at Wai.
6. Learned APP submitted that the Investigating Agency

wants to arrest the Applicant but she could not point out exactly what offence he has committed. He was not involved in the abduction and the offence alleged against the informant and her daughter which had taken place on 17th October 2023. As far as the Applicant is concerned, the only allegation against him, is regarding the incident dated 19th October 2023, when 15 to 17 persons had allegedly assaulted the informant and her husband. She submitted that subsequently, a few statements are recorded showing his involvement.

7. I have considered these submissions and I have perused the investigation papers produced before the Court. The investigation papers contain statements of Pavitra Mali, Komal Mali, Dilip Ghadage, Gopal Ghadage. These statements support the case of the Applicant. Pavitra Mali has stated that the allegations in the FIR are not correct. There was an incident involving a dispute regarding the installation of CCTV camera on 19th October 2023. At that time, the Applicant and others were not present. Only Shital and Nila were present. There was dispute regarding seeking credit in their own community.

Similar is the statement of Komal. The statements of Dilip and Gopal mention that the Applicant and nine others had come to Wai on 19th October 2023 and had attended a meeting at 10'O clock with Dilip Ghadage and Gopal Ghadage. While the meeting was going on, they received the information about the incident of dispute regarding installation of CCTV camera. This dispute was involving four ladies. After that, all of them left Wai at 2.00 p.m. These two statements clearly support the Applicant's case that he was not present at the spot at the time of the incident.

8. The Investigating Agency recorded the statement of the informant's daughter only on 12th February 2024, much belatedly wherein she supported the case of the informant. The statement of the niece of the informant was recorded on 12th February 2024. The other statements of one Ramesh, Kumar, Satish, and Akshay were recorded only on 29th May 2024. i.e. 7 months after the incident dated 17 October 2023. The medical evidence shows that the informant and her husband had suffered four simple injuries and her daughter had suffered one

abrasion.

9. There are no allegations against the present applicant of committing any particular act under the provisions of POCSO Act and under Section 354 of IPC against informant and her daughter. Sufficient doubt is created regarding the prosecution case as far as the Applicant is concerned. There are some statements as mentioned earlier which support the Applicant's case that he was not present at the spot, at the time of the incident.
10. The Applicant is 66 years old man. The statement supporting the informant's case are recorded much belatedly.
11. Learned APP on instructions states that the informant and others are not cooperating with the Investigating Agency for recording their statements under Section 164 of the Cr.PC. She makes this statement on the instructions of the Investigating Agency. Considering all these aspects, the Applicant has made out a case for protection under Section 438 of the Cr.PC. Hence, the following order.

ORDER

- a) In the event of his arrest in connection with Cr. No. 138 of 2023 registered at Kundal Police Station, Sangli the Applicant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- b) The anticipatory bail application is disposed of.

(SARANG V. KOTWAL, J.)