

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

ANTICIPATORY BAIL APPLICATION NO.896 OF 2024

Dilip Bhilsing Chavan & Anr.

.... Applicants

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Shekhar Ingawale, Advocate for Applicant.
- Mr. C. D. Mali, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th APRIL, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.54/2024, dated 09/02/2024, registered with Vijapur Naka Police Station, Solapur City, under sections 376, 376(2)(n), 376(2)(j), 376(3) of the Indian Penal Code, under section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 9 and 10 of the Child Marriage Restraint Act.

2. Heard Mr. Shekhar Ingawale, learned counsel for the Applicants and Mr. C. D. Mali, learned APP for the State.

3. The Applicants are the unfortunate parents of the husband of the victim. The FIR is lodged by one Kiran Jadhav. He was working as a Child Development Project Officer. The victim in this case had delivered her baby on 07/07/2023. She was married to the Applicants' son on 10/05/2022. The victim's date of birth was claimed to be 24/04/2001. However, on enquiries it was revealed that her real date of birth was 02/06/2006. Therefore, she was a minor at the time of her marriage and even at the time of delivery of the child.
4. The case against the present Applicants is that they were the parents of the victim's husband and they had permitted the victim to get married with their son. After the marriage, their son had physical relations with the victim resulting in the birth of their child.
5. Learned counsel for the Applicants submitted that their son had love affair with the victim without their knowledge. One day, he brought the victim to their house telling them that they

were married. The Applicants had not approved of that marriage, but since the victim and their son were residing together in their house, they were helpless and ultimately they got the victim and their son married on 10/05/2022. In the entire episode, they were quite helpless and the marriage was performed to help the victim as she was already staying with their son. In these circumstances, their custodial interrogation is not necessary.

6. Learned APP opposed these submissions. According to him, since the Applicants knowingly permitted their son to reside with the victim and also took steps in getting them married, they have committed the offence under the Child Marriage Restraint Act.

7. I have considered these submissions and I have perused the papers produced before me. In this connection, the statement of the victim is important. Her statement is recorded on 10/02/2023. She has stated that, in 2021, she came to stay with her aunt at Solapur. At that time, she got acquainted with

the son of the present Applicants and developed love affair with him. They decided to get married. One day, they eloped together to Tuljapur and got married. After that, the Applicants' son brought her to his house i.e. to the house of the present Applicants. She specifically stated that the Applicants were not talking with her for two months. Slowly their anger dissipated and finally the Applicant No.1 got them married at Solapur on 10/05/2022. She has specifically stated in her statement that she had not informed anybody that she was a minor. She was residing with her husband. She delivered a daughter from the wedlock. The child was 7 months old at the time of recording of her statement.

8. Considering this background, arrest of the present Applicants would be absolutely unnecessary. They were kept in the dark by their own son and even by the victim that she was a minor. Her statement shows that they did not approve of their son's eloping with the victim and getting married. In spite of that, they themselves are facing the prospect of being arrested. This cannot be justified. The Applicants' arrest is absolutely

unnecessary. They fully deserve protection u/s 438 of Cr.P.C. The investigating agency has overlooked the plight of the 8 month old child who is without support. The Applicants' son is already arrested and is in custody. The arrest of the Applicants would complicate things to the detriment of the 8 month old child.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.54/2024, dated 09/02/2024, registered with Vijapur Naka Police Station, Solapur City, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)