

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

ANTICIPATORY BAIL APPLICATION NO. 1604 OF 2024

Sunil Narayna Shinde & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Rupesh Zade a/w Ms. Priyanka Gupta, for Applicants.
- Mr. Balraj B. Kulkarni, APP for State.
- Mr. R.A. Salunke, H.C., Madha Police Station, Solapur (Rural).

CORAM : MANISH PITALE, J.

DATE : 20th JUNE, 2024.

P. C. :

1. Heard, Mr. Rupesh Zade, learned counsel appearing for the applicant and Mr. Balraj Kulkarni, learned APP for the State.

2. The applicants along with other accused persons are alleged to have driven the niece of applicant No.1 to commit suicide. It is stated that she was a minor. In that context, the applicants are apprehending arrest in connection with First Information No.0029 of 2024 dated 21st February, 2024 registered at Police Station Madha, Solapur (Rural), for the offences under Sections 305, 201, 176 and 34 of the Indian Penal Code (IPC) and under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act.

3. The incident is said to have taken place on 24th December, 2023, while the FIR is registered after about two months on 21st February, 2024.

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The informant is a Police Patil, who claims that a villager informed her about the incident on 24th December, 2023, and hence, she had approached the police for registration of FIR.

4. The informant has stated that the said villager informed her on mobile phone that the applicant No.1 and co-accused Anil Narayan Shinde i.e. his brother had married of the victim i.e. the niece of the applicant No.1 even though she was a minor. It is further stated that the victim was not living with her husband and that she was in touch with a boy from the village. It is then stated that applicant No.2 allegedly saw the victim along with certain boys and he confronted her when the boys ran away and at this stage the applicant No.2 called the applicant No.1 to inform him about the said incident. It is alleged that applicant No.1 reached the place at about 02.30 a.m. in the night of 24th December, 2024 and 25th December, 2023. Both the applicants beat up the victim and took her home. Due to this, the minor victim girl consumed poisonous substance and committed suicide.

5. The learned counsel for the applicants submitted that the FIR is delayed by about two months and it is entirely based on hearsay. There is no basis for the informant to state the details of the alleged incident other than what was narrated to her by the said villager. It is alleged that the aforesaid villager, although his name appears to be erroneously stated by the informant

in her statement, is the very person having civil dispute with the family of applicant No.1. It is indicated that a proceeding under the Mamlatdar Courts Act was initiated against the said villager and he has tried to falsely implicate the applicants.

6. On the other hand Mr. Balraj Kulkarni, learned APP submits that the statement of said villager is recorded and there is nothing to indicate that he is the very person, who had civil dispute with the family of applicant No.1. It is submitted that there are statements of witnesses recorded during the course of investigation showing that they found smell of poisonous substance coming from the mouth of the victim, thereby indicating the genuineness of the information given by the informant to the police.

7. This Court has considered the material on record. The FIR has been registered after about two months of the alleged incident. A perusal of the statement of the informant shows that it is completely based on the information allegedly given by villager. The details of the alleged incident have been stated by the said villager as if he had witnessed the incident. There is nothing to support such a proposition.

8. It is interesting to note that the statement of the said villager, recorded during investigation, indicates that he in turn was given the said information by a third person.

9. Even if the angle of the backdrop of the civil dispute with the said villager leading to approaching the police Patil i.e. the informant is discounted, the manner in which information is provided to the police by the informant indicates that the same is based on hearsay. In any case, such information was placed before the police about two months after the alleged incident. There are no eye witnesses and there is presently scant material on record to corroborate the sequence of events narrated by the informant in her statement, which led to registration of the FIR.

10. As long as the applicants are ready to cooperate with the investigation, they have indeed made out a case for granting anticipatory bail.

11. In view of the above, the application is allowed in the following terms :

- (A) In the event, the applicants are arrested in connection First Information No.0029 of 2024 dated 21st February, 2024 registered at Police Station Madha, Solapur (Rural), for the offences under Sections 305, 201, 176 and 34 of the Indian Penal Code (IPC) and under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, they shall be released on furnishing P.R. bond of ₹ 25,000/- and one or

two sureties in the like amount, to the satisfaction of the Trial Court.

(B) The applicants shall appear before the investigating officer on 26th June, 2024 and thereafter as and when called by the investigating officer.

(C) The applicants shall not tamper with the evidence in any manner. They shall not influence the informant, witnesses or any other person concerned with the case.

(D) The applicants shall attend the Trial Court proceedings on each and every date, except when specifically exempted by the Trial Court.

12. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

13. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicants and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

(MANISH PITALE, J.)