

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

ANTICIPATORY BAIL APPLICATION NO.1686 OF 2024

Ashutosh Pratap Ghadage	...	Applicant
Vs.		
State of Maharashtra and another	...	Respondents

Mr. Satyavrat Joshi a/w Ms. Reena Prajapati i/b Yash Fadtare for applicant.

Mr. Prasanna P. Malshe, APP for Respondent No.1-State.

Ms. Priyanka H. Chavan (appointed Advocate through Legal Aid) for Respondent No.2.

Mr. P.B. Bhangare, ASI, Vishram Baug Police Station.

**CORAM : MANISH PITALE, J.
DATE : 25th NOVEMBER 2024**

P.C. :

. Heard Mr. Joshi, learned counsel appearing for the applicant, Mr. Malshe, learned APP for the State and Ms. Chavan, learned counsel for the respondent No.2.

2. In this application, on 27.06.2024, this Court granted interim relief in favour of the applicant. In the said order, this Court observed as follows:

“4. It is submitted on behalf of the applicant that he is not even named in the FIR. As per the informant, the named accused person took her to ‘Hang on Cafe’, which is run by the applicant and his brother. It is alleged that in the cafe, the named accused person mixed something in the coffee given to the informant, due to which, she felt dizzy and in that situation, the named accused person allegedly undressed the informant and forced himself on her while recording her video. It is submitted that from the statement of the informant, it is not clear as to the exact place where such activities were undertaken and it is unbelievable that such an act would have been committed in full view of the other customers in the cafe. This Court is informed that the

brother of the applicant is already picked up by the police and therefore, the applicant has apprehension of being arrested, despite a strong prima facie case in his favour.

5. *The learned APP submits that the case diary can be produced before this Court to indicate as to what the investigation has revealed about involvement of the applicant.*

6. *This Court has perused the statement of the informant. The allegations are against the named accused person about mixing something in the coffee given to the informant and the manner in which the said accused person forced himself on the informant. The manner in which the incident is described by the informant gives an impression that the said act was undertaken by the named accused person in the cafe. There is substance in the contention raised on behalf of the applicant that such an act could not have been undertaken in full view of the other customers in the cafe. The applicant is not even named in the FIR and this Court is convinced that the strong prima facie case is made out in favour of the applicant.”*

3. The applicant abided by the conditions imposed by this Court while granting interim relief, including appearing before the Investigating Officer.

4. When this application was heard today, learned counsel for the applicant reiterated the submissions made before this Court when interim relief was granted. He submitted that the applicant is merely one of the owners of the Cafe where the named accused person indulged in certain acts as described by the respondent No.2. It was submitted that this Court may consider confirming the interim order as the applicant undertakes to continue to co-operate with the proceedings that arise out of the subject FIR.

5. The learned APP as well as the learned counsel appearing for the respondent No.2 submitted that the applicant can be held responsible by invoking Section 17 of the POCSO Act, as it can be said that the applicant

abetted the named accused person when the offences were committed.

6. This Court has considered the rival submissions. The above quoted portion of the interim order is relevant for deciding the application itself. The material on record shows that, other than the fact about the applicant being one of the owners of the aforesaid Cafe, there is no overt act attributed to the applicant. The entire thrust of the informant is against the named accused person. *Prima facie*, invoking Section 17 of the POCSO Act in such circumstances can be said to be exaggerated and therefore, this Court is not impressed with the said submission.

7. This Court is further informed that now charge-sheet has been filed in the present case.

8. In view of the above, the interim order dated 27.06.2024 is made absolute and the application is allowed, subject to the applicant continuing to abide by the directions of this Court and not tampering with the evidence and not influencing the informant, witnesses or any other person concerned with the case.

(MANISH PITALE, J.)

Ajit Pathrikar