

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

ANTICIPATORY BAIL APPLICATION NO. 3673 OF 2023

Bapu Laxman Gunjal

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Jitendra Gaikwad for Applicant.

Mr. Prashant Jadhav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 13 JUNE 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 652 of 2023. Though, in the prayer the C.R.number is mentioned as 652 of 2021, the F.I.R. annexed at Exhibit-E mentions the C.R.No.652 of 2023 registered at Karmala Police Station, Solapur Rural, under sections 354, 354-A(2), 324, 504, 506, 427, 143, 147, 148 and 149 of the Indian Penal Code and under section 8 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act'). Learned APP informs that the Court that subsequently, Section 326 of the I.P.C. is added.
2. Heard Mr. Jitendra Gaikwad, learned counsel for the applicant and Mr. Prashant Jadhav, learned APP for the State.

3. The F.I.R. is lodged by the first informant who was residing with the victim girl aged 11 years. The informant was doing labour work. The present applicant and his family were her relatives. The incident took place on 23.08.2023 at about 8:30a.m. The informant heard shouts of her daughter. She went outside the house to look for her daughter. She saw that the applicant's son was standing near the informant's daughter. The informant questioned him. The informant told him that she would go to the police station. The applicant's son picked up a stick and started beating the informant. Hearing that noise, the present applicant and three others came there. They started abusing the informant. It is specifically mentioned that the applicant picked up a stick lying there and started beating the informant. The informant thereafter went to the police station. In the meantime, the accused damaged the informant's family's motorcycle. On this basis the F.I.R. was lodged. Before lodging of the F.I.R. the informant was sent to the Government Dispensary at Karmala and after that the F.I.R. was lodged on 24.08.2023.

4. Learned counsel for the applicant submitted that, there

was history of dispute between the informant's family and the applicant's family. In the year 2020, the informant's brother had caused serious injuries to the applicant. He further submitted that the applicant was not present at the time of alleged incident which is the subject matter of the present offence. He, therefore, submitted that the applicant be granted anticipatory bail. He further submitted that the applicant was willing to co-operate with the investigation. According to the learned counsel, the present applicant is a senior citizen and he is not concerned with the allegations of commission of offence punishable U/s.8 of the POCSO Act.

5. Learned APP opposed these submissions. However, he conceded that there are no specific allegations as far as provisions of POCSO Act are concerned against the present applicant. However, offence U/s.326 of the I.P.C. is clearly made out against the applicant. He produced the investigation papers before the Court.

6. I have considered these submissions. The dispute

between the families resulting in injuries to the applicant was from the year 2020. Even then the present informant was not concerned with the injuries caused to the applicant. The medical certificate of the first informant shows that, she had suffered three injuries. The first was on the forearm, the second was on the wrist and the third was again on the forearm. All these injuries were of 5cm x 3cm size. The first injury was described as grievous injury. The investigation papers show that, Dr. Shinde had issued certificate dated 25.08.2023 mentioning that the informant had suffered Post Traumatic fracture distal radius left side. It was described as grievous injury. In the background of this certificate, if the allegations in the F.I.R. are seen, it is clear that the specific role of assault with stick is attributed to the present applicant. Therefore, there is sufficient material against the present applicant. The informant who was a lady was beaten by the applicant and his son with a stick causing fracture of her hand. While it is true that the applicant is not concerned with the allegations under POCSO Act, but the offence U/s.326 of the I.P.C. is clearly made out.

7. Considering the gravity of the offence, the applicant

cannot be protected by way of anticipatory bail. Hence, the application is rejected.

8. However, it is clarified that, if the applicant prefers regular bail application, it shall be decided expeditiously on its own merits; considering his age and health condition, independent of rejection of this anticipatory bail application.

(SARANG V. KOTWAL, J.)