

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

ANTICIPATORY BAIL APPLICATION NO.969 OF 2024

Chandrakant Devman Aher	 Applicant
versus	
State of Maharashtra & Anr.	 Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.975 OF 2024**

Nandkumar Raghunath Pagar	 Applicant
versus	
State of Maharashtra & Anr.	 Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.976 OF 2024**

Vaishali Laxman Wagh	 Applicant
versus	
State of Maharashtra & Anr.	 Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.977 OF 2024**

Priya Dattatray Jadhav	 Applicant
versus	
State of Maharashtra & Anr.	 Respondents

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- Mr. Aniket Nikam i/b. Satyajeet Mane, Advocate for Applicants in all ABAs.
- Ms. Poonam P. Bhosale, APP for the State/Respondent in ABA/969/24, ABA/975/24, and ABA/977/24.
- Ms. Rajeshree V. Newton, APP for the State/Respondent, ABA/976/24.

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CORAM : SARANG V. KOTWAL, J.
DATE : 10th APRIL, 2024

P.C. :

1. All these applications are decided by this common order today because they arise out of the same registered offence.
2. The Applicants are seeking anticipatory bail in connection with C.R.No.58/2024, dated 13/03/2024, registered with Pimpalgaon Police Station, Nashik Rural, under sections 305, 511, 506, 509 r/w 34 of the Indian Penal Code, under section 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').
3. Heard Mr. Aniket Nikam, learned counsel for the Applicant and Ms. Poonam P. Bhosale & Ms. Rajeshree V. Newton, learned APPs for the State.

4. The FIR is lodged by the victim herself, who was 16 years and 8 months of age at the time of lodging of the FIR. She was studying in the Government Ashramshala at Mukhed, Taluka Niphad, District Nashik. She was studying in the 12th standard. The Applicants in Anticipatory Bail Application No.976 of 2024 and Anticipatory Bail Application No.977 of 2024 are the teachers of that school. The Applicant in Anticipatory Bail Application No.969 of 2024 is the Headmaster and the Applicant in Anticipatory Bail Application No.975 of 2024 is a Senior Teacher.

5. In February 2023, the person incharge of that institution came for a visit. At that time, some of the girls complained that they were not getting proper meals. That person was the Secretary of the institute. He called those girls to his office. Again those girls repeated the complaint. Thereafter there was some conversation between the girls and the Secretary. On the next day, the Applicant Jadhav called the informant and asked her about the conversation with the Secretary. At that time, the informant told her about the

complaints made by the girls. The informant was called to the laboratory. Applicants Wagh and Jadhav told the informant to make serious allegations against the Secretary. They told her to complain that the Secretary had held her hand. The informant told them that such incident had not taken place. At that time, the Applicant Chandrakant Aher came there and asked the other two Applicants as to whether they had properly instructed the girls. The Applicant Wagh replied in the affirmative, but she added that the informant was hesitating. The Applicant Aher then left from there and told them that after the Applicant Pagar came there, those girls should be brought to his office. The FIR mentions that the Applicants Jadhav and Wagh continued to put pressure on the informant to make a false complaint. Accordingly, the informant and other girls made false allegations before the Applicant Aher. They were made to give written complaints. The informant also wrote down her complaint.

6. In January 2024, the other three girls had completed their education upto 12th standard and had left the Ashramshala. The informant was still studying in the 12th standard. She was

called by the Applicants Wagh and Jadhav and again told her to make a complaint against the Secretary. At that time, the informant refused to make false allegations. Both these Applicants threatened her that she would not get good marks in the internal examination, as those marks were controlled by these Applicants. On the next day, some officer from Mumbai had come for inspection. She asked about the difficulties faced by the girls. At that time also, the informant did not make any false allegations. On the next day, the Applicants Jadhav and Wagh scolded her for not making a complaint against the Secretary. Both of them abused her in filthy language. After that, the other students from her class stopped talking to her and she was not treated properly. It is further mentioned that the Applicants Jadhav and Wagh kept the informant's bag near a garbage bin. The girls used to keep their footwear on the informant's bag. They used to hide her dinner plate. All the Applicants used to call the informant in the laboratory frequently and used to pressurize her to lodge false complaint against the Secretary. The informant had consumed pills to commit suicide because of the harassment. Her father had taken

her to a dispensary. But after 3 to 4 days again she was taken to Ashramshala. It is further alleged that the Applicant Jadhav and Wagh called her from her classroom and made her go through pregnancy test on two occasions. On 04/03/2024, again the Applicant Jadhav and Wagh called her to the laboratory and told her to make complaint against the Secretary before higher officer, who were to visit on the next day. The informant told about this to her father. He came to the school on 05/03/2024. But the informant was not allowed to meet her parents. On the same day, at about 01.00 p.m. the Applicants Aher and Pagar told the students of 11th and 12th class to make false complaint against the Secretary for outraging their modesty. The Secretary came there. There was a quarrel between the Secretary on one hand and the Applicant's Aher and Pagar on the other. The Applicant Pagar was not allowing the informant to go out of the laboratory. She somehow came outside. She tried to jump from the first floor. In the evening the informant consumed poison. Her parents took her home. In the evening, she vomited. But she did not tell her parents that she had consumed poison. Her health deteriorated in the night. At that time, she told her

mother that she had consumed poison. She was taken to the Rural Hospital at Vani. She was admitted there, but she had an examination on the next day. Therefore, she was taken to Khedgaon for examination. Again she was admitted to the hospital and after the treatment she was discharged. It is her case that, for no reason, she was forced to undergo pregnancy test. She was defamed amongst the students and a rumor was spread that there was affair between the informant and the Secretary of the school. She was forced to take that extreme step of consuming poison because of the harassment. On this basis, the FIR is lodged.

7. Learned counsel for the Applicants made the following submissions:

The FIR against these Applicants is a result of fight between the two groups. The Applicants are in one group and the Secretary is in the other group. The C.R. No.54/2024 is registered at Pimpalgaon Police Station on 07/03/2024 u/s 354-A, 506 of the IPC and under section 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections

3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, against the Secretary in respect of the incident dated 21/02/2023. After this FIR was lodged on 07/03/2024, the present FIR against the Applicants was lodged on 13/03/2024 as a counterblast and to put pressure on the present Applicants. He submitted that there were many complaints against the Secretary made by different girls. Those complaints could not be ignored. The present FIR is filed with malafide intention and therefore inspite of the bar u/s 18 of the Atrocities Act, the Applicants can be protected. The incident of consuming poison had taken place on 05/03/2024. It is improbable that on the next date the informant would appear for the examination. There is a delay in lodging of the FIR on 13/03/2024. That delay has remained unexplained. The offence u/s 305 of the IPC is not made out. The Superintendent of the hostel had given a statement on 01/03/2023 to the Headmaster, that she would be more careful. He further submitted that the ingredients of section 3(1)(r) and 3(1)(s) are not fulfilled because the allegations did not indicate that the informant was insulted because she belongs to a Scheduled Tribe or Scheduled

Caste. Therefore, the provisions of the Atrocities Act are not applicable. The Applicants would suffer irreparable loss if they are arrested on these false allegations.

8. Learned APPs opposed these submissions. They submitted that the record shows that the informant belongs to a scheduled tribe and she was below 18 years of age. Considering the allegations, section 305 of IPC is made out. They submitted that there is a medical report to show that the informant had consumed poison. They submitted that the informant's statement was recorded u/s 164 of Cr.P.C., wherein she has repeated the allegations against the Applicants. She was humiliated in front of the other students and hence it was in public view. Therefore, the offence under the Atrocities Act is made out. In this view of the matter, the Applicants cannot be protected in view of the bar u/s 18 of the Atrocities Act.

9. I have considered these submissions. These Applicants were the teachers, senior teacher and the Headmaster of the said Ashramshala. They were very well aware that the informant

was below 18 years of age and was belonging to a scheduled tribe. Though, there is another FIR as referred to by the learned counsel for the Applicants, it pertains to an incident which had taken place allegedly about one year prior to the registration of that FIR, i.e. C.R.No.54/2024. To that extent, it can be referred only to the background to show the fight between the two groups controlling the school. From the record itself, it is quite clear that the Secretary was in one group and these Applicants were in the other group. Therefore, it is necessary to consider the allegations made by the first informant in the present FIR lodged against these four Applicants. As described earlier, it is quite clear that all the four Applicants were telling her to lodge the complaint against the Secretary. She was continuously pressurized and harassed on that count. She was treated differently from other girls. Her bag was kept near a dustbin. The other girls used to keep their footwear on her bag. Her dinner plate used to be hidden. All the Applicants used to call her to the laboratory and used to force her to lodge false complaint. It is her case that she had consumed poison. This fact is supported by a certificate issued by Rural Hospital, Vani. The

informant was admitted in that hospital on 06/03/2024 at 12.30 a.m. as she had consumed poison and was under treatment for the same. She responded well to the treatment and was discharged on 06/03/2024 at 10.00 p.m. This fact of consuming poison is supported by the medical certificate. Therefore, her allegations are not false or baseless. Moreover, her statement is also recorded u/s 164 of Cr.PC., wherein she had repeated her allegations made in the FIR. What is disturbing is that she was forced to undergo the pregnancy test and the rumor was spread that she was having an affair with the Secretary of the Institute.

10. The ingredients of section 3(1)(r) are about the accused intentionally insulting or intimidating with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view. As far as section 3(1)(s) is concerned, there are no specific allegations about abuses being given in the name of scheduled caste or scheduled tribe. But the allegations are covered under the definition of section 3(1)(r). The description mentioned hereinabove show these ingredients. In this view of the matter, the bar of section 18 of the said Act

operates and the Applicants cannot be protected u/s 438 of Cr.PC.

11. The allegations in the other FIR i.e. C.R.No.54/2024 can be decided independently. The ordeal suffered by the informant in this case is clearly mentioned in the present FIR, which is registered vide C.R.No.58/2024. Under these circumstances, no protection can be granted to the Applicants. All the applications are rejected.

(SARANG V. KOTWAL, J.)