

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

ANTICIPATORY BAIL APPLICATION NO. 3652 OF 2023

Arun Dattatray Shivarkar	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Prashant S. Hagare for Applicant.
Smt. M. H. Mhatre, APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 2 JANUARY 2024

PC :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1413 of 2023, registered at Yavat police station, District Pune, on 25.10.2023, under sections 354-A, 354-D and 384 of the I.P.C. and under sections 8 and 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act').
2. Heard Mr. Prashant Hagare, learned counsel for the applicant and Smt. Mhatre, learned APP for the State.
3. The F.I.R. is lodged by the maternal uncle of the victim who was 11 years 11 months old. The first informant was taking

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care of the victim and her brother because his sister had passed away. The victim was studying in Zilla Parishad school in 6th standard. She along with 6 to 7 other boys and girls used to go to the school in a milk tanker. On 24.10.2023, the first informant saw a pen with the victim. He asked her from where she got it. She told him her entire story. She told him that, on 17.10.2023, as any other seat was not empty, she had sat next to the driver. The driver touched her private parts and her chest. She got scared. On 18.10.2023, she decided not to go in that tempo out of fear, but the driver of the tempo followed her and forced her to sit in the tempo. She was accompanied by a friend, but that friend got down near the school. At that time, the driver twisted her hand. He told her to bring money. He threatened her.

4. On 19.10.2023, the victim removed Rs.400/- from the first informant's wallet and Rs.500/- from her grandmother's cupboard. On that day, she gave that money to the driver. She told this story to the first informant. The first informant and the family members went to the tempo driver's house. On their enquiry, they came to know that the present applicant was the driver and he

committed this offence. On this basis, the F.I.R. was lodged..

5. Learned counsel for the applicant submitted that, there was delay of at least 5 days in lodging the F.I.R. on 25.10.2023, though, the offence had allegedly taken place from 18.10.2023 to 19.10.2023. He submitted that, maximum sentence for the offence punishable under POCSO Act is 7 years. The applicant is implicated at the behest of his business rivals. There is no cogent evidence about the extortion of Rs.900/-.

6. Learned APP opposed this application. She submitted that the victim had consistently deposed her story even in her statement recorded U/s.164 of the Cr.p.c. She submitted that, there is sufficient material against the present applicant. The offence is serious.

7. I have considered these submissions. The age of the victim is only 11 years 11 months. It is not expected from her that she would inform about the incident to anybody else; because of the fear instilled by the applicant in her mind. Therefore, the submission regarding the delay in lodging the F.I.R. has no

substance. The offence of aggravated sexual assault is clearly made out from the narration in the F.I.R. Looking at the gravity of the offence, though, only Sections 8 and 12 of the POCSO Act are mentioned in the F.I.R., in fact, the offence punishable U/s.9 of the POCSO Act which is for aggravated sexual assault is made out.

8. Considering these circumstances, no case for grant of anticipatory bail order is made out. The application is rejected.

(SARANG V. KOTWAL, J.)