

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

ANTICIPATORY BAIL APPLICATION NO. 1757 OF 2024

Snehal Yashwant Ujagare	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Tejesh Dande a/w Bharat Gadhavi and Sarvesh Deshpande i/by
Mansi Dande for the Applicant.

Ms. Rutuja A. Ambekar, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 5th JULY 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for respondent-State.

2. The applicant is a lady apprehending arrest in connection with FIR No. 0098 of 2024 dated 15th March 2024 registered at Sangvi Police Station, Pimpri-Chinchwad, for offences under Sections 354, 354-A, 323, 504 read with 34 of the Indian Penal Code, 1860 (IPC) and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. The offence of Section 305 of the IPC was added subsequently in the light of the fact that the victim in the present case expired about eight days after the incident, as a consequence of poison consumed by her.

4. The case against the accused persons in the present case is that the applicant, who is a Dentist, confronted the victim, a girl aged about 17 years and 11 months, employed in the clinic of her husband i.e. accused No.1, who is also a Dentist, on the ground that the victim was having an affair with accused No.1. In the process, the applicant allegedly slapped the victim and shouted on her. During the course of the incident, an employee of the clinic closed the shutter and thereafter, it was opened when the victim was crying and she came out of the clinic. The relatives of the victim came to the spot of the incident and took her away.

5. It is alleged that due to the aforesaid incident, on the next day, the victim consumed poison, which eventually resulted in her death about eight days after the date of the incident.

6. The learned counsel for the applicant submits that in the present case, the accused No.1 was arrested. After investigation was completed, charge-sheet has been filed against the accused No.1. It is submitted that the statement of the victim, which led to registration of the FIR, recorded in question and answer form, shows that in the first place, the allegations relatable to offences under Protection of Children from Sexual Offences Act, 2012 (POCSO Act) were levelled against the accused No.1. The only allegation against the applicant is that she confronted the victim about the alleged affair and slapped her. It is submitted that such conduct of the applicant by no stretch of imagination can be said to be with the intention of instigating the victim to commit suicide

by consuming poison. It is further submitted that in such circumstances, custody of the applicant is not required and that the applicant is ready to present herself before the Investigating Officer.

7. On the other hand, the learned APP has vehemently opposed the present application. She submits that the act of the applicant in assaulting the victim, pushed her into consuming poison and therefore, a strong case is made out against the applicant. It is submitted that the description of the incident given by the victim, which is corroborated by the statement given by her friend, who was present at the place and time of the incident, shows the active involvement of the applicant in the said offence and since offences under POCSO Act have been registered, no case is made out for granting anticipatory bail. It is suggested that the mother of the victim ought to be made a respondent in the present application, as offences under the POCSO Act have been registered.

8. This Court has considered the rival submissions in the backdrop of the material available on record. The learned counsel for the applicant has tendered a copy of the charge-sheet with accompanying documents.

9. Having perused the material on record, this Court is of the opinion that the offences registered under the POCSO Act are relatable to the allegations made by the victim against accused No.1 i.e. husband of the applicant. There are no allegations

against the applicant as regards the offences under Sections 8 and 12 of the POCSO Act, which pertain to punishment for sexual assault and punishment for sexual harassment. Therefore, it is not necessary to add the mother of the victim as respondent for considering the prayer made in the present application.

10. The allegation against the applicant in the present case is limited to the assault that she allegedly carried out on the victim, on the suspicion that the victim was having an affair with the husband of the applicant i.e. the accused No.1. Beyond the said act of having assaulted and scolded the victim, there are no other allegations against the applicant.

11. This Court is of the opinion that the material available on record does not indicate that the applicant, when she undertook the alleged act, did so with the intent of driving the victim to commit suicide.

12. The applicant undertook the aforesaid actions under the belief that the victim was having an affair with her husband and in such circumstances, it is farfetched to claim that the applicant had the intent of driving the minor victim to commit suicide. Therefore, the ingredients of the offence under Section 305 of the IPC *prima facie* are not made out and the applicant has made out a case in her favour.

13. The statements of the witnesses, which corroborate with the

narration of events given by the victim also do not attribute any further act on the part of the applicant other than assaulting and scolding the victim.

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

(a) In the event the applicant is arrested in connection with FIR No.0098 of 2024 dated 15th March 2024 registered at Sangvi Police Station, Pimpri-Chinchwad, she shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount, to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 8th July 2024 between 10:00 am and 12:00 noon and thereafter, as and when called by the Investigating Officer. She shall cooperate with the Investigating Officer during the course of investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses or any other person concerned with the case.

15. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the

observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

16. The application is disposed of.

MANISH PITALE, J.