

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

ANTICIPATORY BAIL APPLICATION NO. 1994 OF 2024

Milind Premchand Rakecha

...Applicant

Versus

The State of Maharashtra

...Respondent

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MALANI

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- Mr. Nitin Gaware Patil a/w Mr. Shubham Wadne and Mr. Shantanu Kolhe, for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent.
- Mr. Dilip Tukaram Pawar, PSI, Junnar Police Station.

CORAM : MANISH PITALE, J.

DATE : 31st July, 2024.

P. C. :

1. Heard, Mr. Nitin Gaware Patil, learned counsel for the applicant and Ms. Megha Bajoria, learned APP for the State.

2. The applicant apprehends arrest in connection with First Information Report No.0215 of 2024 (FIR), dated 09th June, 2024, registered at Police Station Junnar, District Pune (Rural), for offences under Sections 324, 323, 504, 506 and 509 of the Indian Penal Code (IPC) and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. The FIR has been lodged on the statement of the informant specifically alleging two incidents dated 14th March, 2024 and 09th June, 2024, against the applicant. The informant states that the applicant is her husband and he behaved in an inappropriate manner on the aforesaid two

dates as a consequence of which, she was constrained to approach the police. There is also an allegation that the applicant assaulted the informant.

4. At the outset, the learned counsel for the applicant points out that even though the applicant and the informant are not formally married, apart from the informant specifically mentioning in her statement that the applicant is her husband, copy of the birth certificate of the child is tendered to show that the father's name is that of the applicant and that there is a document executed between the parties signifying that their relationship is akin to that of marriage.

5. It is submitted on behalf of the applicant that although the allegations are extremely serious, there is a background to the incident, in the sense that the applicant and the informant are having disputes and in that light the applicant was constrained to submit a complaint to the police on 04th May, 2024, against the informant. It is further brought to the notice of this Court that during the pendency of the anticipatory bail application before the Sessions Court, on 18th June, 2024, interim protection was granted, which operated till the application was dismissed by the Sessions Court on 28th June, 2024. The applicant undertakes to add the informant as party respondent No.2, but a prayer is made for granting interim relief, while issuing notice to the respondent No.2.

6. The learned APP has vehemently opposed granting any interim relief in the facts of the present case. It is submitted that the informant has described in detail as to the manner in which the applicant behaved with his own daughter. It is further submitted that there is no material to indicate any dispute between the parties, for the informant to falsely implicate the applicant. It is submitted that this Court may not grant any interim relief and in that in any case since offences under the provisions of the POCSO Act are registered, the informant has to be added as respondent.

7. Since offences under the provisions of the POCSO Act are registered against the applicant, the informant has to be added as respondent. Accordingly, leave is granted to the applicant to forthwith amend the application to add the informant as respondent No.2.

8. Issue notice to respondent No.2, returnable on **13th August, 2024**, to be included in the “Supplementary List.”

9. The notice shall be served through the Investigating Officer, for which purpose the applicant shall provide an additional set of papers to the Investigating Officer.

10. This Court is inclined to grant interim order in favour of the applicant for the following reasons :

- (i) The first incident referred to by the informant in her statement, leading to registration of the FIR, is of the date 14th March, 2024. A specific allegation is made against the applicant, who is stated to be the husband of the informant, with regard to the manner in which he behaved with his own daughter. From 14th March, 2024 till 09th June, 2024, the informant did not make any grievance.
- (ii) The statement of the informant shows that thereafter, on 09th June, 2024, the applicant behaved in a specific manner with his own daughter giving rise to the grievance of the informant with regard to offence under the POCSO Act.
- (iii) The FIR was indeed registered on the same day, but this Court finds that between 14th March, 2024 and 09th June, 2024, on 04th May, 2024, itself the applicant had submitted a complaint at the very same police station raising his grievance about dispute with the informant and his apprehension that the informant was about to burn his vehicle.
- (iv) Hence, there appears to be a semblance of material on record to show some kind of a dispute between the

applicant and the informant prior to the informant approaching the police.

- (v) It is an admitted position that during pendency of the anticipatory bail application before this Sessions Court, the applicant was enjoying interim relief.

11. For the aforesaid reasons the following interim order is passed :

- (A) Till the next date of listing, in the event the applicant is arrested in connection with FIR No.0215 of 2024 (FIR), dated 09th June, 2024, registered at Police Station Junnar, District Pune (Rural), for offences under Sections 324, 323, 504, 506 and 509 of the Indian Penal Code (IPC) and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), he shall be released on bail, on furnishing PR Bond of ₹ 25,000/- and one or two sureties in the like amount.
- (B) The applicant shall remain present before the Investigating Officer on 02nd August, 2024 at 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.
- (C) The applicant shall not in any manner contact the informant or minor child (daughter) during the pendency

of the present application.

- (D) The applicant shall not visit Lenyadri, where the house of the informant is located.
- (E) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.
- (F) The applicant shall cooperate with the investigation.

6. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

7. List the application for further consideration on **13th August, 2024**, to be included in the “Supplementary List.”

(MANISH PITALE, J.)