

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2233 OF 2024

Amol Dnyandev Kharat ... Applicant
Vs.
State of Maharashtra and another ... Respondents

Mr. Ranjeet M. Pawar for Applicant.
Mr. Tanveer G. Khan, APP for Respondent-State.
Mr. Mahesh Chopane, Police Constable, Walchandnagar Police Station.

CORAM : MANISH PITALE, J.
DATE : AUGUST 22, 2024

P.C. :

. Heard Mr. Pawar, learned counsel for the applicant and Mr. Khan, learned APP for the respondent-State.

2. In the present case, the applicant is apprehending arrest in connection with FIR No.0703 of 2023 dated 19.09.2023 registered with Walchand Nagar Police Station, District - Pune Rural, for offences under Sections 341, 354-D read with Section 34 of the Indian Penal Code, 1860 (IPC), as also under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. Since offence under the POCSO Act is also registered in the present case, notice will have to be issued to respondent No.2 (victim girl). Hence, issue notice to the respondent No.2, returnable on 24.09.2024, High on Board. Respondent No.2 shall be served through the investigating officer, for which purpose, the applicant shall provide an additional set of papers to the investigating officer.

4. In the facts of the present case, the learned counsel for the applicant is pressing for interim relief, on the basis that even if the

statement of the informant (victim girl) is to be taken into consideration, the ingredients of the offence under Section 12 of the POCSO Act are not made out as against the applicant. Therefore, this Court is considering the question of granting interim relief to the applicant.

5. The statement of the informant (victim girl), who is stated to be about 15 years old, shows that the applicant along with co-accused person had pursued the informant on their motorcycle, when the informant was returning after attending classes on her bicycle. The allegation is that on two occasions, the co-accused person, while following the informant, used some gestures and words, which put the informant in fear and she informed her family members. On 18.09.2023 i.e. the third occasion, when the accused persons allegedly pursued and followed the informant, before the co-accused person could actually use such words and gestures, the family members of the informant apprehended him, while the applicant allegedly fled away from the spot. On this basis, the said offences have been registered.

6. The learned counsel for the applicant submits that the offences under Sections 341 and 354-D of the IPC are both bailable and that leaves only the offence under Section 12 of the POCSO Act. It is submitted that at least insofar as the applicant is concerned, offence under Section 12 of the POCSO Act is not made out. It is brought to the notice of this Court that the co-accused person, against whom the allegations of overt act have been made, has been already granted regular bail.

7. On the other hand, the learned APP submits that the ingredients of the offences are made out. It is a serious case where the 15 year old minor girl suffered harassment at the hands of the accused persons, including the applicant. There is possibility of the informant and her family members being threatened and therefore, this Court may not grant

interim relief.

8. A perusal of the statement of the informant shows that specific allegation pertaining to use of words and gestures is against the co-accused person, while the role attributed to the applicant is that of accompanying the co-accused person. It can be said that insofar as pursuing and following the informant is concerned, the presence of the applicant may be made out on the basis of the statement of the informant. But, there is no allegation of specific overt act on the part of the applicant of using words or gestures, which could lead to offence under Section 12 of the POCSO Act. The offences registered under the IPC are both bailable offences. The applicant has undertaken to co-operate with the investigation and to abide by the conditions, that may be imposed by this Court. Hence, this Court is inclined to grant interim relief.

9. In the meanwhile, the following interim order is passed:-

- A. Till the next date, in the event the applicant is arrested in connection with FIR No.0703 of 2023 dated 19.09.2023 registered with Walchand Nagar Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 26.08.2024 and thereafter as and when required by the investigating officer. Except for remaining present before the investigating officer, the applicant shall not enter the jurisdiction of Walchand Nagar Police Station, District - Pune Rural, till filing of the charge-sheet. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witness or

any person concerned with the case and he shall not tamper with the evidence.

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

11. List on 24.09.2024, High on Board.

(MANISH PITALE, J.)

Minal Parab