

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2382 OF 2024

Akshay Yashwant Kurane ... Applicant
Vs.
State of Maharashtra and another ... Respondents

Mr. Babu Singh a/w. Mr. Dnyandev Baban Bhingurdeo for Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. Pandurang Munde, PSI, Miraj (Gramin) Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 09, 2024

P.C. :

1. Heard Mr. Singh, learned counsel for the applicant and Mr. Kulkarni, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0256 of 2024 dated 28.04.2024 registered with Miraj Rural Police Station, District - Sangli, initially for offence under Section 363 of the Indian Penal Code, 1860 (IPC). Subsequently, offences under Sections 354, 366, 504, 506 read with Section 34 of the IPC, as also Sections 7, 8, 11, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) were added.

3. In the present case, there are three accused persons. The other two accused persons are the step-father and step-mother of the applicant. The step-mother of the applicant was granted anticipatory bail by the Sessions Court, while this Court, by an order dated 23.08.2024, granted interim relief in favour of the step-father of the applicant in Anticipatory Bail Application No.2186 of 2024. This Court observed that the only allegation against the step-father of the applicant was that the applicant

had brought the victim girl to the house of the step-father.

4. The learned counsel for the applicant submits that this is a case of love affair between the victim, who was 17 years and 3 months old at the time of the incident. It is submitted that the victim was on the verge of attaining majority and she voluntarily joined company of the applicant. Even according to the victim, there is no allegation of sexual abuse or sexual intercourse between the two even during the extended period of time when the victim joined the company of the applicant. It is submitted that the applicant is ready to co-operate with the investigation and therefore, this Court may consider granting relief.

5. The learned APP, on the other hand, relies upon the statement of the victim recorded under Section 161 of the Code of Criminal Procedure, 1973 (Cr.P.C.), as also her statement recorded under Section 164 of the Cr.P.C. before the Magistrate. He submits that there are clear allegations of threats given by the applicant in particular and also by his brother to the victim, which do indicate the ingredients of the offences registered against the applicant.

6. This Court has carefully perused the statements given by the victim girl. Her statement recorded before the Magistrate under Section 164 of the Cr.P.C. does contain one sentence, alleging that the applicant had threatened that he would kill her unless she agreed for marriage with him. But, the other part of the aforesaid statement of the victim indicates that she voluntarily joined the company of the applicant and she was with him for about six days at Tirupati, two days at Kolhapur and about 15 days in Konkan region, before eventually being found by the police. She specifically stated that she had gone with the applicant on her volition and that there was no physical relationship during the aforesaid period between the two. It is significant to note that the victim was 17 years and 3 months at the relevant time, indicating that she was on the

verge of attaining majority and it can be said that she was aware of the consequences of her actions.

7. Considering the aforesaid material, this Court is inclined to grant interim relief in favour of the applicant, while keeping the present application pending.

8. Since offences under the POCSO Act are also registered, it would be necessary to issue notice to the victim, who is added as respondent No.2 in the present application.

9. Hence, issue notice to the respondent No.2, returnable on 24.09.2024, to be included in the supplementary list. 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 within two days.

10. In the meanwhile, there shall be interim relief in the following terms:-

- A. Till the next date, in the event the applicant is arrested in connection with FIR No.0256 of 2024 dated 28.04.2024 registered with Miraj Rural Police Station, District - Sangli, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall appear before the investigating officer on 11.09.2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the investigating officer. The applicant shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

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

(MANISH PITALE, J.)

Minal Parab