

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2452 OF 2024

Nilesh Bhagwan Korhale

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Hrushikesh Sayaji Korhale and Mr. Ajinkya Vilas Taskar, for Applicant.
- Mr. Mayur S. Sonavane, APP for Respondent.
- Mr. Bade, Sunil, API, Nandgaon Police Station.

CORAM : MANISH PITALE, J.

DATE : 13th SEPTEMBER, 2024.

P. C. :

1. Heard, Mr. Korhale, learned counsel for the applicant and Mr. Sonavane, learned APP for the respondent – State.
2. The applicant is apprehending arrest in connection with First Information Report No.0291 of 2024, dated 19.07.2024, registered at Police Station Nandgaon, District Nashik, for offences under Sections 376 (2)(n), 324 of the Indian Penal Code, 1860 (IPC), Sections 3(2) and 3(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 4 of the Protection of the Children from Sexual Offences Act, 2012 (POCSO Act).
3. Since offences under the provisions of the POCSO Act have been registered against the applicant, the first informant – victim has been added as

respondent No.2 and notice will have to be issued to her.

4. But, the learned counsel for the applicant submits that this Court may consider granting interim relief to the applicant while issuing notice. It is submitted that even though anticipatory bail is statutorily prohibited under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, in cases where a strong *prima facie* case is made out, Courts have granted relief of anticipatory bail and according to the learned counsel for the applicant, this is one such case. In that light, the learned counsel for the applicant and the learned APP were heard on the question of granting interim relief while issuing notice to the respondent No.2.

5. This Court has perused the material on record with the assistance of the counsel, particularly the statement of the informant, leading to registration of the FIR.

6. At first blush, the ingredients of offences registered against the applicant can be said to be made out only on the statement of the informant, as she has indeed alleged that the applicant had indulged in forcible sexual intercourse with her on various occasions. Considering the communities to which the applicant and the informant belong, the offences under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, have also been registered.

7. But, a perusal of the FIR itself shows that the first incident alleged against the applicant is stated to be of the year 2019. This is a clear 5 years prior to the registration of the FIR. The narration of such incidents alleged to have taken place from the year 2019 onwards does not give specific details and general allegations are made about occasions on which the applicant used to allegedly forced himself on the respondent No.2. In the statement, reference is thereafter made two incidents in November, 2023 and one in February, 2024. All along, it is claimed that the informant and her family was so terrorized that they could not raise their voice.

8. Thereafter, it is stated that on 28.04.2024, the informant got married and went to another village to stay. The informant has then alleged that on 24.06.2024, the last such incident of forcible sexual intercourse took place and this time in the matrimonial house of the informant. It is pertinent to note that the FIR was registered after about 25 days of the last such alleged incident. If the delay in registration of the FIR is considered from the first alleged incident, there is delay of 5 years in approaching the police.

9. This Court is of the opinion that on this ground alone, the applicant appears to have made out a *prima facie* case in his favour and hence, while keeping the present application pending, interim relief can be granted to the applicant. Appropriate conditions shall be imposed to ensure that the

applicant in no manner influences or contacts the informant, during the pendency of the present application. The applicant has undertaken to cooperate with the investigation.

10. In view of the above, issue notice to respondent No.2, returnable on **18th October, 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 one week from today.

11. In the meanwhile, there shall be interim order in the following terms :

(A) Till the next date of listing, in the event the applicant is arrested in connection with FIR No.0291 of 2024, dated 19.07.2024, registered at Police Station Nandgaon, District Nashik, he shall be released on bail, on furnishing PR Bond of ₹ 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 18.09.2024 at 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.

(C) The applicant shall cooperate with the investigation,

including remaining present for medical examination, if required, and he shall surrender his mobile phone before the Investigating Officer.

- (D) The applicant shall not enter Taluka Chandwad, District Nashik, during the pendency of the application
- (E) The applicant shall not in any manner contact the informant during the pendency of the present application.
- (F) 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.

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 **18th October, 2024**, to be included in the “Supplementary List.”

(MANISH PITALE, J.)