

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2488 OF 2024

Shanta Kalu Gangurde ... Applicant

Vs.

State of Maharashtra and another ... Respondents

AND

ANTICIPATORY BAIL APPLICATION NO.2491 OF 2024

Kalu Nana Gangurde ... Applicant

Vs.

State of Maharashtra and another ... Respondents

Mr. Anandmaya Dhorde for Applicants in both ABAs.

Mr. Prasanna P. Malshe, APP for Respondent-State in ABA/2488/2024.

Mr. Balraj B. Kulkarni, APP for Respondent-State in ABA/2491/2024.

CORAM : MANISH PITALE, J.

DATE : SEPTEMBER 18, 2024

P.C. :

. In these two applications, the applicants are apprehending arrest in connection with FIR No.0216 of 2024 dated 26.05.2024 registered with Chandwad Police Station, District - Nashik, for offences under Sections 323, 376(2)(n), 504, 506 read with Section 34 of the Indian Penal Code, 1860 (IPC), and under Sections 4, 5(j)(ii), 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act), as also under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006.

2. Since offences under the POCSO Act are also registered, the applicants have added the informant as respondent No.2. Notice may have to be issued to respondent No.2, but in the meanwhile, the learned counsel for the applicants is pressing for interim relief.

3. The learned APPs submit that notice will have to be served upon the respondent No.2 before the applications are taken up for hearing and disposal.

4. This Court is inclined to grant interim relief to the applicants, while issuing notice to the informant, for the following reasons:-

- a. Considering the statement made by the informant leading to registration of the FIR, offences under the POCSO Act *prima facie* would not be relevant for considering the present applications filed by the applicants;
- b. The allegations against the applicants are relevant for offences under the provisions of the Prohibition of Child Marriage Act, 2006, under which all the offences are non-bailable. The allegation against the applicants is that they were present when marriage was solemnized between the informant, who allegedly was only 13 years old and grandson of the applicants. The statement of the informant then proceeds to give details about the manner in which she was forced to establish physical relationship with the accused with whom she was forcibly married;
- c. Both the applicants are senior citizens, aged about 75 years and they are ready to co-operate with the investigation. The statement of the informant *prima facie* does not indicate the involvement of the applicants in the offences registered under the IPC and POCSO Act;

5. In view of the above, issue notice to the respondent No.2 in both the applications, returnable on 23.10.2024.

6. Respondent No.2 shall be served through the investigating officer

and for that purpose, the applicants shall provide an additional set of papers to the investigating officer.

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

- A. Till the next date, in the event the applicants are arrested in connection with FIR No.0216 of 2024 dated 26.05.2024 registered with Chandwad Police Station, District - Nashik, they shall be released on bail on furnishing PR Bond of Rs.10,000/- each with one or two sureties in the like amount;
- B. The applicants shall co-operate with the investigation, including remaining present before the investigating officer, as and when called;
- C. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

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

9. List on 23.10.2024, to be included in the supplementary list.

(MANISH PITALE, J.)

Minal Parab