

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

ANTICIPATORY BAIL APPLICATION NO. 2823 OF 2024

Irfan Salim Bangi	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Karan S. Rajput a/w Mr. Fauzan Shaikh for the Applicant.
Mr. R. V. Newton, APP for Respondent-State.
Ms. Punam Patil, PSI, Swargate Police Station.

**CORAM: MANISH PITALE, J.
DATE : 21st OCTOBER 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0222 of 2024 dated 9th June 2024 registered at Swargate Police Station, Dist. Pune, for offences under Sections 354-A, 506(2), 504, 323 read with 34 of the Indian Penal Code, 1860 (IPC) and Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. Since offences under the POCSO Act are also registered, the victim ought to be made a party to the present application.

4. At this stage, the learned counsel for the applicant submits that if leave is granted to add the victim i.e. the informant, she

would be made a party in the present case. Leave is granted. The amendment be carried out forthwith.

5. Issue notice to respondent No.2, returnable on **25th November 2024 (High on Board)**.

6. In the meanwhile, the learned counsel for the applicant is pressing for interim relief. He submits that the thrust of the allegations against the applicant in the FIR pertain to assaulting the father of the victim by means of fists and kicks, which would not entail offences under the POCSO Act. He further submits that this aspect was specifically recorded by the Sessions Court in the order dated 24th June 2024, while granting interim protection, during the pendency of the application. It is submitted that thereafter, by order dated 6th September 2024, the application was dismissed, *inter alia* on the ground that the applicant did not cooperate with the investigation. It is submitted, on instructions, that the applicant was never called by the Investigating Officer and therefore, this observation of the Sessions Court is surprising. In any case, it is submitted that the applicant was enjoying interim protection, during the pendency of his application before the Sessions Court and therefore, this Court may consider granting interim relief, as the applicant undertakes to appear before the Investigating Officer and to cooperate with the investigation.

7. The learned APP submits that on overall reading of the statement of the informant, ingredients of the offences under the

POCSO Act are made out against the applicant.

8. This Court has perused the statement, leading to registration of the FIR. Undoubtedly there is a reference to the applicant also in the later part of the statement, wherein it is alleged that the applicant and the co-accused person made a particular statement to the father of the victim/informant, which could show ingredients of the offence of sexual harassment as defined under Section 11 of the POCSO Act. But, the initial part of the statement alleges only an act of assaulting the father of the informant and in that sense, the learned counsel for the applicant appears to be justified in pressing for interim relief.

9. In view of the above, the following interim order is passed :

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No.0222 of 2024 dated 9th June 2024 registered at Swargate Police Station, Dist. Pune, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount.
- (b) The applicant shall remain present before the Investigating Officer on 24th and 25th October 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.
- (c) The applicant shall not tamper with the evidence of the

prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

10. In the event, the applicant violates any of the aforesaid conditions, the order passed today would be recalled.

11. List this application for further consideration on 25th November 2024 (High on Board).

MANISH PITALE, J.