

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

ANTICIPATORY BAIL APPLICATION NO. 3135 OF 2024

Roshan Anant Bari

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Virendra Verma (through V.C.) a/w Ms. Kainat Sayed and Ms. Deepa A. i/b Ms.. Munira Palnpurwala, for Applicant.
- Mr. Sagar R. Agarkar, APP for respondent No.1. - State.
- Mr. Bharat Wanave, PSI, Vangaon Police Station.

CORAM : MANISH PITALE, J.

DATE : 26th NOVEMBER, 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 First Information Report No.0081 of 2024, dated 21st September, 2024, registered at Police Station Vangaon, District Palghar, for offences under Sections 74, 75, 78 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act)

3. The informant is the victim who at the time of the incident was stated to be 17 years 5 months and 17 days old. It is alleged that on 20th September, 2024, the applicant undertook such actions as are described in the

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statement of the informant, which led to registration of the aforesaid offences.

4. The learned counsel for the applicant submits that none of the offences registered against the applicant provide for punishment of imprisonment for a period more than 5 years. It is submitted that in such a situation, the Investigating Officer could have issued notice to the applicant and he would have cooperated with the investigation. It is submitted that the applicant is ready and willing to cooperate with the investigation and since there is no serious allegations against the applicant, other than having held the hand of the victim girl, this Court may consider granting relief to the applicant.

5. On the other hand, the learned APP pointed out that since offences under the the provisions of the POCSO Act are also registered, it would be necessary to issue notice to the respondent No.2 (victim – informant). It is further submitted that in the meanwhile the applicant does not deserve any interim relief, for the reason that the allegations levelled against him are serious. It is further submitted that there are statements of the witnesses also, which corroborate the presence of the applicant at the date and time of the incident. It is further submitted that after the subject FIR was registered, on 13th October, 2024, an FIR has been registered against the brother of the applicant on the allegation that he alongwith other persons had

abused and beaten up three persons, who are witnesses in the present case, leading to registration of the FIR against the said persons. It is further brought to the notice of this Court a report of non-cognizable offence was also registered on 14th October, 2024, against a particular woman on the allegation that she had abused and beaten the victim herein and her father. It is further stated that the brothers of the applicant are facing prosecution for offences as per an FIR registered against them in the year 2021. It is submitted that since the family members of the applicant have criminal tendencies, it would be unsafe to grant interim relief to the applicant.

6. Having perused the material on record, this Court finds that the offences registered against the applicant are such that even if he is eventually convicted he may be imprisoned for a maximum period of 5 years. The applicant has undertaken to cooperate with the investigation. The apprehension expressed by the learned APP with regard to the possibility of the applicant threatening the informant and other witnesses, appropriate conditions can be imposed. Till such time as the respondent No.2 appears before this Court, conditional interim relief can be granted.

7. In view of the above, issue notice to respondent No.2, returnable on 12th December, 2024, to be included in the "Supplementary List."

8. 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, on or before 29th November, 2024.

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

- (A) Till the next date, in the event the applicant is arrested in connection with FIR No.0081 of 2024, dated 21st September, 2024, registered at Police Station Vangaon, District Palghar, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with 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 28th November, 2024 and 29th November, 2024, between 10:00 a.m. and 12 noon and thereafter as and when required by the Investigating Officer.
- (C) The applicant shall co-operate with the investigation.
- (D) The applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.
- (E) Except for complying with the condition (B) hereinabove, during the pendency of this application, the applicant shall not enter the Taluka Dahanu, District Palghar.

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

11. List for further consideration on **12th December, 2024, to be included in the “Supplementary List.”**

(MANISH PITALE, J.)