IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.224 OF 2024

Avinash Namdev Kale and others
Vs.
State of Maharashtra, Through Police Station Officer, Police Station Washim (Rural), District Washim and another

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. A. A. Naik, Advocate h/f Mr. P. S. Chawhan, Advocate for applicants.
Ms. Ritu Sharma, APP for respondent No.1/State.
Mr. V. B. Gawali, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/04/2024

1. Apprehending the arrest at the hands of Police in connection with Crime No.140/2024 for the offence punishable under Section 354-D of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, the applicants are approached this Court for grant of pre-arrest bail.

2. Learned Counsel Mr. Naik for the applicants submitted that as per the allegation in the FIR, the applicant No.3 Ganesh Dattarao Gote was following the victim with sexual intent and on 01.03.2024 as per the allegation, when victim was proceeding to appear for her examination, the applicants followed her. Applicant No.1 took the mobile phone and handed over to her and informed her that said mobile phone is given to him by the applicant No.3 and she should communicate with the applicant No.3 from the

said mobile phone. When she declined to accept, she was threatened by both the applicants that they would kidnap her brother and father if she declined to accept the same. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned Counsel for the applicants invited my attention towards the two chits from which he submitted that, it reveals that there was a love affair between the applicant No.3 and the informant. But due to the pressure of the parents, she appears to have lodged the report. He submitted that even accepted this allegation as it is, immediate custodial interrogation of the present applicants is not required. In view of that, prayer for grant of ad-interim protection deserves to be allowed.

4. Learned APP strongly opposed the application on the ground that considering the threats given by the present applicants, the custodial interrogation of the present applicants is required. In view of that, prayer for ad-interim protection deserves to be rejected.

5. Learned Counsel Mr. Gawali, waives service of notice for respondent No.2 and strongly opposed the application.

6. Having heard the learned Counsel for the applicant, learned APP for the State and learned Counsel for the respondent No.2. Perused the recitals of the FIR from which it reveals that the allegation is of stalking against the present applicants. The documents filed on record shows that the informant/victim has issued some chits to the applicant No.3 showing the love affair between them. As far as the handwriting part of the said chit is concerned, is the matter of investigation and the specimen handwriting is to be collected from the victim, for that purpose the custodial interrogation of the applicants is not required. Admittedly, custodial interrogation is one of the effective modes of investigation into the alleged crime. It is equally proved that just because custodial interrogation is not required that by itself may not be a ground to allow the prayer of ad-interim protection. At the same time, the State has to show more than *prima facie* case to show that the custodial interrogation is required.

7. Considering the same, at this stage, immediate custodial interrogation of the applicants is not required. In view of that, they can be protected by granting ad-interim anticipatory bail. In view of that, I Proceed to pass following order.

ORDER

(i) In the event of arrest in connection with Crime No.140/2024 for the

offence punishable under Section 354-D of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, the applicant **No.(1) Avinash Namdev Kale, No.(2) Sairam Nandu Gote and No.(3) Ganesh Dattarao Gote** shall be released on ad-interim anticipatory bail on executing PR bond in the sum of Rs. 25,000/- each with one solvent surety in the like amount.

(ii) The applicants shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

(iii) The applicants shall not in any manner communicate or contact with the victim or any prosecution witnesses or they shall not enter into the village Tondgaon, Taluka and District Washim, till the furthers orders.

Stand over after two weeks.

(URMILA JOSHI-PHALKE, J.)

Sarkate

Signed by: Mr. A.R. Sarkate
Designation: PA To Honourable Judge
Date: 05/04/2024 14:22:30