



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

978 ANTICIPATORY BAIL APPLICATION NO. 1005 OF 2023
WITH
CRIMINAL APPLICATION NO. 2713 OF 2023 IN ABA/1005/2023

ANIKET S/O SHAHADEV LABADE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Kulkarni Rashmi S.

APP for Respondent/State : Mr. S.P. Sonpawale

Advocate for Respondent 2 : Ms. Sangita Sambre.(appointed Through Legal
Aid)

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CORAM : ARUN R. PEDNEKER, J.

DATE : 05/03/2025

PER COURT :

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and Mrs. Sangita Sambre, learned counsel appointed for respondent No. 2.

2. The applicant is apprehending arrest in connection with Crime No. 214/2023 dated 23.3.2023 registered with Ahmednagar Taluka Police Station, Tq. And Dist. Ahmednagar for the offences punishable under sections 363, 376, 376(3) of I.P.C. and sections 3 and 4 of Protection of Children from Sexual Offences Act.

3. The learned counsel for the applicant submits that this Court by order dated 23.6.2023 has granted interim protection to the applicant for the reasons stated in the order at para 3 and 4 which are as under :-

"3. Learned counsel for the applicant places reliance on the copies of instagram chats and letter addressed by the daughter of the informant which prima facie indicate that it is a case of love affair and there was insistence from her to the applicant to take her away from home. Record indicates that the daughter of the informant was brought back to her

parents on 24th April, 2023, however, her statement seems to have been recorded on 25th April, 2023.

4. Having regard to the aforesaid facts, prima facie there is reason to believe that it is a case of love affair. The question as to whether daughter of the informant was minor or not at the relevant time would be considered at the time of hearing of the present application on merit. Suffice it to say that this is a fit case of protect liberty of the applicant till prosecution is heard in the matter. Hence, the following order :-"

4. The learned counsel for the applicant submits that thereafter investigation in the matter was completed and chargesheet is filed for aforesaid offences and also for the offences under sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(v-a) of Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and the matter is kept for framing charge before the Court.

5. The learned counsel submits that the learned Single Judge of this Court has referred the matter to Full Bench to decide the following issues :-

"(i) Whether interpretation that Section 42-A of POCSO Act shall prevail over Section 14-A of Atrocities Act, in the matter of grant or refusal of bail, would result into abrogating right of victim, to prefer an appeal under Section 14-A of Atrocities Act against grant of bail to accused ?

(ii) Whether such interpretation is sustainable having regard to intention of legislature in providing participation of victim and witness of atrocities at all stages of proceedings under Atrocities Act, with specific provision of Section 14-A thereof ?"

6. The Full Bench of this Court vide order dated 19.12.2024 has answered the above issues at para 32, as under :-

"32. For all the aforesaid reasons, our answer to both the issues as under :

(1) No, in a case involving offences under both, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Protection of Children from Sexual Offences Act, a victim thereof does not have a right to prefer appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(2) Such interpretation is sustainable.”

7. Considering the judgment of the Full Bench of this Court that the anticipatory bail application would be maintainable in the crime involving offences under POCSO Act and Atrocities Act, the present anticipatory bail application is entertained for offences under both the Acts.

8. Considering the fact that interim protection is granted by this Court and considering the fact that further custodial interrogation of the applicant would not be required for the aforesaid offences and the above offences under Atrocities Act, the interim protection granted on 23.6.2023 can be confirmed. Prima facie, considering the facts of the case, applicability of Atrocities Act is doubtful as the facts depicts love affair between the individuals and it cannot be said that atrocity is committed by he applicant on the victim. As such, the bar under section 18 of the Atrocities Act would not apply to this case.

9. In view of the above, the application is allowed and the interim protection granted on 23.6.2023 is confirmed, on the following terms :

i] 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.

iii] The applicant shall co-operate in the proceedings before the trial Court.

10. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

11. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

8. The application stands disposed of.

9. Fees be paid to Mrs. Sangita Sambre, learned advocate appointed for respondent No. 2 as per rules.

10. In view of disposal of ABA No. 1005/20023, Criminal Application No. 2713/2023 is also disposed of.

[ARUN R. PEDNEKER, J.]

SSC/