



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

917 ANTICIPATORY BAIL APPLICATION NO. 1682 OF 2024

Lalit Ashok Gaware

....Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

.....

Mr. A. B. Kale, Advocate holding for Ms. S. A. Kale, Advocate for Applicant

Mrs. M. N. Ghanekar, APP for the State.

Mr. V. T. Tarde, Advocate for Respondent No. 2.

Ms. H. R. Lomate, Advocate (appointed) for victim.

WITH

ANTICIPATORY BAIL APPLICATION NO. 1685 OF 2024

Mahesh Abhay Teltumbade

..... Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

.....

Mr. A. B. Kale, Advocate holding for Ms. S. A. Kale, Advocate for Applicant

Mrs. M. N. Ghanekar, APP for the State.

Mr. V. T. Tarde, Advocate for Respondent No. 2.

Ms. H. R. Lomate, Advocate (appointed) for victim.

WITH

ANTICIPATORY BAIL APPLICATION NO. 1687 OF 2024

Aniket Babasaheb Autade

..... Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

.....

Mr. A. B. Kale, Advocate holding for Ms. S. A. Kale, Advocate for Applicant

Mrs. M. N. Ghanekar, APP for the State.

Mr. V. T. Tarde, Advocate for Respondent No. 2.

Ms. H. R. Lomate, Advocate (appointed) for victim.

CORAM : R. M. JOSHI, J.

DATE : 5th FEBRUARY, 2025.

PER COURT :

1. This is a motion for speaking to the minutes of the order dated 24.01.2025.

2. Learned appointed counsel for victim submits that inadvertently her name is mentioned as Ms. H. R. Lonade instead of Ms. H. R. Lomate.

3. The error being inadvertent the same be corrected. Corrected order be uploaded.

(R. M. JOSHI)
Judge

(This order is modified and uploaded vide speaking to the minutes order dated 05.02.2025)

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BENCH AT AURANGABAD**

917 ANTICIPATORY BAIL APPLICATION NO. 1682 OF 2024

Lalit Ashok GawareApplicant

VERSUS

The State of Maharashtra & anotherRespondents

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Mrs. M. N. Ghanekar, APP for the State.

Mr. V. T. Tarde, Advocate for Respondent No. 2.

Ms. H. R. **Lomate**, Advocate (appointed) for victim.

WITH

ANTICIPATORY BAIL APPLICATION NO. 1685 OF 2024

Mahesh Abhay Teltumbade Applicant

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. A. B. Kale, Advocate holding for Ms. S. A. Kale, Advocate for Applicant

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Ms. H. R. **Lomate**, Advocate (appointed) for victim.

WITH

ANTICIPATORY BAIL APPLICATION NO. 1687 OF 2024

Aniket Babasaheb Autade Applicant

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. A. B. Kale, Advocate holding for Ms. S. A. Kale, Advocate for Applicant

Mrs. M. N. Ghanekar, APP for the State.

Mr. V. T. Tarde, Advocate for Respondent No. 2.

Ms. H. R. **Lomate**, Advocate (appointed) for victim.

CORAM : R. M. JOSHI, J.

DATE : 24th JANUARY, 2025.

PER COURT :

1. During the course of hearing it is revealed that learned counsel Mr. Tarde is appearing on behalf of the informant. Informant herein has submitted affidavit during investigation against the victim. Hence, it is necessary to appoint advocate to represent the victim.

2. In view of this, learned counsel Ms. Lonade is appointed to represent the victim.

3. Learned counsel for the applicants to provide copy of application and annexures to the appointed counsel. Learned APP is also requested to cooperate with the appointed counsel.

4. Applicants apprehend arrest in connection with Crime No. 0607/2024 registered with Shrirampur City Police Station,

District Ahmednagar for the offences punishable under Sections 376, 376-D, 354, 323, 504, 506, 509 of Indian Penal Code and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act.

5. A minor girl aged about 17 years lodged report on 11.06.2024 by alleging that she fell in love with one of the applicants. He along with co-accused took the victim girl to Shirdi in April 2024. Allegations are made that accused with whom she had love relations, established physical relations with her. There is further allegation that thereafter on 28.04.2024, co-accused informed her about there being a video recorded of the said physical relationship between her and the other accused. It is alleged that on the basis of said evidence, she was blackmailed and she was called upon to give physical favour to other two accused. There is also allegation that they demanded Rs. 30,000/- and extorted money from her.

6. Learned counsel for the applicants submits that there are basic contradictions in the statement made and the First Information Report. It is his submission that the alleged incidents have occurred in April 2024 however, report is lodged on 11.06.2024.

It is his submission that the places where the incident has occurred are public places and in that circumstance, unless there is evidence indicating that the victim was ever found along with the applicants/accused, prima facie it cannot be held that they have committed any crime. Lastly, he relied upon the affidavit filed by parents of the victim girl indicating that the victim girl is prone to lodge false report for extortion of money.

7. Learned APP and learned appointed counsel opposed the application by citing seriousness of the crime. It is their contention that the consent of minor is immaterial for physical relationship and as such a consensual relationship cannot become a defence.

8. Though there cannot be any dispute made with regard to the submission made by learned APP that consent of minor for physical relationship is immaterial, however, the overall facts and circumstances must be sufficient to indicate prima facie involvement of the applicants/accused in the crime. Merely because an offence is registered under the provisions of Protection of Children from Sexual Offences Act, that itself does not become a ground for rejection of the pre-arrest bail. Here in this case, report is lodged after two months

of the incident. Though there is allegation made against one of the applicants that in April 2024 at Shirdi he established forcible physical relationship with the victim, however, history given to the medical officer speaks differently. Apart from this, when there are allegations that the incidents have occurred at public place, a specific query was made to the investigating agency to point out as to whether at any point of time the victim was seen at those places along with applicants. From investigation papers, it does not seem so. Finally, in the affidavits filed by the parents of the victim girl, they in no uncertain terms claim that the victim is in habit to lodge false report of extortion. In such circumstances, there is no reason to reject the applications. Applicants have no criminal history. They are not likely to flee from justice. Hence, all the applications are allowed in terms of interim order.

9. Fees of the appointed counsel is quantified at Rs. 6,000/-.

(R. M. JOSHI)
Judge

dyb