



(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

918 ANTICIPATORY BAIL APPLICATION NO. 942 OF 2025

Amin Abbas Pathan
Shabana Amin Pathan
Ahmad Gulmahmmad Pathan
Ashu d/o Hujafar Pathan

VERSUS

The State Of Maharashtra And Another

.....

Mr Fayaz K. Patel, Advocate for Applicants.

Mrs M. L. Sangit, APP for respondent/State.

Ms A. N. Deshpande, Advocate h/f Ms Nupur Paliwal, Advocate for
respondent No.2 (appointed)

.....

CORAM : ADVAIT M. SETHNA, J.

DATE : 24 JULY 2025

P. C. :

1. Heard learned Advocates for the parties.
2. The Application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the Applicants apprehend their arrest. The proceedings relate to Crime No.0188/2025. The FIR is dated 19 March 2025 at 16:24 hours registered by the Ahmedpur Police Station, District Latur. The only Section invoked initially in the FIR is Section 137(2) of the Bharatiya Nyaya Sanhita. Later on, Sections 64(2)(m) and 3(5) of Bharatiya

(2)

Nyaya Sanhita, 2023, under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2-5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 are added.

3. It appears that the charge-sheet is also filed. The informant is the mother of victim in the present case who has filed report on 19 March 2025. It appears that the allegations in the FIR are that mother of the victim child, who is 16 years, and her husband i.e. father of victim were working as agricultural servants at village Hippalnari, Tq. Mukhed, Dist. Nanded. The victim at the relevant time was studying in 10 Standard. On 18 March 2025, victim child left her house. Despite search, she could not found. Accordingly, a missing complaint was filed by her mother/informant with the Ahmedpur Police Station, Dist. Latur. In such facts and circumstances, the FIR came to be registered.

4. The submissions by the State and the learned Advocate appearing on behalf of the victim appear to be common. They would support the case of the prosecution in the FIR and subsequently in the charge-sheet. According to them, the victim was kidnapped by the accused and the parents of the accused aided and abetted such offence

(3)

punishable under Section 16 of the POCSO Act. They would submit that as the victim was about 16 years of age at the relevant time, she was minor and thus, there is no question for her consent being taken when she was taken from the house. The parents of the victim child were also not informed. Thus, they would strongly oppose the Anticipatory Bail Application.

5. Mr Patel, learned Advocate for the Applicants, on the other hand, would contend that, even going by the contents of the FIR, it becomes clear that the prosecutrix and the accused were in love. It is in such circumstances that she left the house and the relationship between them appear to be consensual. He would place reliance on certain orders of the Supreme Court passed under POCSO Act, to submit that the Supreme Court in similar facts has granted relief to the Applicants. He would also rely on the judgment in the matter of **Harsh Pratik Khakha Vs. State of NCT of Delhi**¹ mainly on paragraph 4 where the facts and circumstances are similar to the present case, travelled to the Supreme Court which enlarged the petitioners therein on regular bail.

¹ (Special Leave to Appeal (Cri.) No.13552/2023

(4)

6. Learned Advocate for the victim has circulated an order of this Court in **Mandip Gyan Singh Vs. State of Maharashtra and another**² where the judgment in the matter of **S. Varadarajan Vs. State of Madras**³ of the Supreme Court is gainfully referred to. However, paragraph 14 of the judgment in **Mandip Gyan Singh** (supra) is noted which reads thus :-

“14. In so far as present case is concerned, it is seen that victim – prosecutrix was 14 years old whereas Applicant was 25 years old and it clearly appears from the record namely statement of victim herself that she was in love with the Applicant and therefore she herself alone eloped from her own house along with money, travelled with Applicant to Pune, and thereafter stayed with him without the consent of her parents.”

7. It appears that the aforesaid paragraph would apply to the given factual matrix. What is important to note that the accused has been released on bail by an order dated 15/07/2025, passed by the Special Judge, Ahmedpur (Trial Court). It is true that this is the order in regular bail, however, the facts and circumstances under which the said order is passed are relevant which are noted in paragraph 7 of the said order.

² 2025 SCC OnLine Bom 439

³ AIR 1965 SC 942

(5)

8. In such circumstances, prima facie, the Applicants having no criminal antecedents, who are the parents of the accused who is already enlarged on bail, deserve protection in the following terms :-

O R D E R

- (i) Until adjourned date of hearing, in the event of arrest of the Applicants in connection with C.R. No.188/2025 registered with Ahmedpur Police Station, District Latur, for the offences punishable under Sections 137(2), 64(2)(m) and 3(5) of Bharatiya Nyaya Sanhita, 2023, under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2-5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand Only) each with one or more sureties in the like amount.
- (ii) The Applicants shall attend the concerned Police Station on every Monday at 11.30 am, until further orders and shall cooperate with the investigation.
- (iii) The Applicants shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned Police Station. If there is any change in the contact details, the same shall be immediately informed to the concerned Police Station.
- (iv) The Applicants shall not leave the jurisdiction of the competent Court without prior permission, until further orders.

(6)

- (v) They shall not contact and/or influence the witness/es and/or tamper with the evidence in any manner whatsoever.
- (vi) They shall not come in contact with the victim in any manner whatsoever. If any complaint in this regard is reported to the police station, that would be a ground to vacate the protection granted to the Applicants by this order.

9. List the Application for further consideration/hearing on **14 August 2025.**

10. The protection granted today in favour of the Applicants shall continue till the adjourned date of hearing.

11. Ms Nupur Paliwal has been appointed by the Court on behalf of respondent No.2. She has effectively assisted the Court in these proceedings. The High Court Legal Services Sub-Committee, Aurangabad is directed to remit the quantified fees to Advocate Ms Nupur Paliwal.

[ADVAIT M. SETHNA, J.]

sjk