



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

CRIMINAL APPLICATION (ABA) NO. 415 OF 2026

(Prashant Ashok Palaspagar V/s State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
Appearances, court's orders or directions and
Registrar's orders

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for Applicant.
Ms. Gulafshan Begam Ansari, Advocate for
Respondent No.2.
Ms. S. N. Thakur, APP for Respondent
No.1/State.

CORAM : PRAVIN S. PATIL, J.
DATE : JUNE 10, 2026.

. Heard.

2. By this Application, the Applicant is seeking pre-arrest bail in Crime No. 422/2025 registered with Police Station, Civil Line, Akola for the offence punishable under Sections 308(5), 75(1)(2), 351(1)(2) and 3(5) of Bhartiya Nyay Sanhita, 2023 (*for short, 'BNS'*) read with Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3. It is the case of Prosecution that on 29/11/2025 Informant Jeevan Govind Belkhede lodged complaint to the Police Station, Akola alleging that at 10.00 a.m. when he along with his wife was present in the house, at that time his son came home in frightened condition and narrated about the incident that on 25/11/2025 at about 7.00 p.m. he along with one Avani

Deshpande went to English Tuition of Mr. Bochari Sir for attending parents meeting. After attending the programme, they both went to the nearby Hotel and after carrying breakfast went to Rautwadi Park, which is situated in the nearby vicinity, and they started eating the same. At that time at about 8.00 p.m. present Applicant along with one Montu Wankhede and one unknown person came there and asked them to show Adharcard and took photos of Adharcard and son of the Informant along with Avani Deshpande and drive them away.

4. Thereafter on 27/11/2025 at about 8.00 p.m. one Atish Waghmare called the son of Informant out of the house and took him to the abandoned place. The present Applicant was already present there, who told him that he is having video shooting along with Avani Deshpande and snatched the mobile phone from him and make a call from his mobile to Avani Deshpande and demanded her Rs.1.00 Lac or golden ornaments and threatened that if she failed to do so, he will show the said video shooting to her parents. Thereafter the present Applicant caught collar of the son of Informant and beat him with fist and kick blows and confined him on that place till 11.00 p.m.

5. On the basis of above complaint, an offence came to be registered, investigation was carried out and chargesheet came to be filed against other accused persons by reserving right to file supplementary chargesheet against the Applicant who is recorded as absconding.

6. One of the ground which is raised by the present Applicant in the present matter is that the Investigating Officer, who is duty-bound to issue notice under Section 35(3) of the BNSS as per the directions given by the Hon'ble Supreme Court of India in the case of *Satender Kumar Antil V/s Central Bureau of Investigation and Another, (2022) 10 Supreme Court Cases 51*, completed investigation without issuing notice to the Applicant. It is also pointed out that chargesheet is already filed against the other accused persons in the matter, and therefore, he is entitled for protection in the matter.

7. The learned APP has strongly opposed the present Application. According to the learned APP, if chronologically we looked into, it is clear that present Applicant has threatened and abused to the minor children, and therefore, considering the chronological events, which are narrated in the complaint, issuance of notice under Section 35(3) is not necessary in the matter.

8. The learned APP further pointed out that there are criminal antecedents against the present Applicant and it is also one additional reason to reject the present Application.

9. In the background of above submissions made by both the parties, it will be relevant to refer the Judgment of the Hon'ble Apex Court in the case of *Satender Kumar Antil (supra)*, wherein notice under Section 35(3) of BNSS is held mandatory in the

offences wherein punishment is not more than seven years. Failure to issue such notice, accused become entitled for bail. Therefore, as per the mandate of law, the Applicant is entitled for interim protection.

10. At the same time, the fact cannot be denied that as per the chronological events, as alleged in the complaint, involvement of the Applicant cannot be denied. Therefore considering this fact, liberty can be granted to the prosecution to serve notice under Section 35(3) of BNSS, 2023 in the matter.

11. In the circumstances, following order is passed.

ORDER

1. Criminal Application is partly allowed.
2. The investigation Officer is at liberty to issue notice under Section 35(3) of BNSS, 2023 to the Applicant in the matter, if he intends to effect the arrest of the Applicant in the matter. Such notice be issued within seven days from the date of this order.
3. If such notice is received by the Applicant, liberty is granted to the Applicant to approach before the Sessions Court to renew the request of anticipatory bail.
4. It is made clear that Applicant should not be arrested

unless there is compliance of notice under Section 35(3) of BNSS, 2023 in the matter.

[PRAVIN S. PATIL, J.]

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