

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3000 OF 2022

Ramkrshna S. Kumbhar

...Applicant

V/s.

The State of Maharashtra & anr.

...Respondents.

Mr. Satyavrat Joshi i/b Mr. Ashish S. Vernekar for the Applicant.

Mr. Yurvraj R. Dhole i/b Ms. Deepal Thakkar for Respondent No.2.

Mr. P.H. Gaikwad-Patil, APP for the Respondent/State.

PSI Ms S.S. Mulik attached to Dattawadi police station present.

CORAM : N.R. BORKAR, J.
DATE : 14.12.2022.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. The applicant is apprehending his arrest in Crime No.215 of 2022 registered at Dattawadi Police Station, Pune city for the offences punishable under Sections 354 and 506 of the Indian Penal Code (IPC) and Sections 7 and 11 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).
3. According to the prosecution, the applicant was working at the Vada Pav stall of the complainant. On the date of incident which took place on 9 September 2022, the complainant was in need of grocery for her vada pav stall, however, she was not able to go to market as there were lot of customers at her stall. The applicant therefore said to her that he would go to the market and bring the required grocery. It is alleged that the present applicant,

however, told the complainant to send her daughter (victim) with him to bring grocery. The complainant, therefore, told her daughter to accompany the applicant. It is alleged that when the applicant and the victim came back at the complainant's stall the victim was crying and on being asked as to why she was crying the victim disclosed to her that the present applicant did wrong thing with her i.e., four times pressed her breast.

4. I have heard the learned counsel appearing for the applicant, the learned APP for the respondent/State and the learned counsel for respondent No.2.

5. The learned counsel for the applicant submits that there is delay of two days in lodging the FIR. It is submitted that a false complaint came to be lodged as the dispute arose between the complainant and the applicant on account of sharing of profit. It is further submitted that nothing is to be recovered at the instance of the present applicant and therefore custodial interrogation of the present applicant is not necessary. It is thus submitted that the applicant may be released on anticipatory bail.

6. On the other hand, the learned APP submits that the applicant is involved in serious case of sexual assault. It is submitted that considering the nature of offence, the applicant may not be released on anticipatory bail.

7. In a case like this, i.e., of outraging the modesty of minor girl or sexual assault there is always reluctance to go to the police

station and to lodge the report. In my view, the case of the prosecution, therefore, cannot be doubted just because there is delay of two days in lodging the report. *Prima facie*, the defense of the applicant that false report came to be lodged against him does not appears to be probable. Considering the facts and circumstances, I am not inclined to release the applicant on anticipatory bail. Hence, the Anticipatory Bail Application is rejected.

8. Needless to mention that the observations are *prima facie*.

[N.R.BORKAR, J.]