

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION***

***ANTICIPATORY BAIL APPLICATION NO.1247 OF 2017***

Iqbal Shaha s/o Bashir Shaha .. Applicant  
Vs.  
State of Maharashtra .. Respondent

***ALONG WITH  
CRIMINAL APPLICATION NO.701 OF 2017  
IN  
ANTICIPATORY BAIL APPLICATION NO.1247 OF 2017***

Shahina Shaikh Saeed Shaikh .. Intervenor  
Vs.  
State of Maharashtra .. Respondent

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Mr.Harshad E. Palwe for the applicant.  
Mr.S.V.Gavand, Additional Public Prosecutor for the respondent.  
Mr.M.N.Sandhyanshiv for Intervenor.

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***CORAM : T.V. NALAWADE, J.  
DATE : 9<sup>th</sup> August 2017***

P.C. :

. The application is filed for the relief of anticipatory bail.  
Both the sides are heard. Papers of investigation were made available for perusal of this Court.

2. Submissions made and papers of investigation show that aunt of the victim girl gave report to the Dayane Ramzanpure Police Station, Nashik on 12<sup>th</sup> June 2017 in respect of the incident dated 19<sup>th</sup> May 2017. A crime was registered for the offences punishable under Sections 354A, 452, 506 of the Indian Penal Code and provision of

Section 8 of the Protection of Children from Sexual Offences Act, (POCSO Act) 2012.

3. The victim girl is the step daughter of the present applicant and she is aged about 16 years. Divorce has taken place between the mother of the victim girl and her father. After divorce, the victim girl and other three issues are living with their father and mother of the victim girl is living with the present applicant. Some record with that regard is collected by the police. Allegations are made that on 19<sup>th</sup> May 2017 at about 9 p.m. when the victim girl was alone in the house, the present applicant committed offence. The first informant returned back to home at about 9.30 p.m. At that time, the present applicant was leaving the house. The first informant noticed that the victim girl was frightened and she was crying. She disclosed the incident but First Information Report was not filed immediately.

4. Submissions made and records show that a private complaint was filed within two days of the incident and prayer was made for sending the matter under Section 156 (3) of the Code of Criminal Procedure, however, before making of any order, the crime was registered by the Police on the basis of the report by aunt of the victim girl.

5. The present applicant has taken a defence of alibi and in support of that defence, some record like affidavits of some persons are produced. On the other hand, learned APP showed to this Court the CDR record showing the location of the present applicant. The location shown in the CDR record is consistent with the version by the victim girl and the aunt. Serious offence is committed by the present applicant and at this

stage, it cannot be said that false allegations are made against the present applicant. This Court holds that it is not a fit case where the discretion can be used in favour of the applicant. In the result, the application stands rejected. Interim relief granted by this Court is vacated. Learned counsel for the applicant requested for continuation of the interim relief. It is refused. Other application for permission to assist the learned APP is allowed.

***T.V. NALAWADE, J.***