

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1275 OF 2017

Akeel Ahmed Sarvar Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. S. R. Borkar i/b. Ms. Anita Bhaktwani for the applicant.

Mr. A. R. Kapadnis, APP for the respondent - State.

**CORAM : PRAKASH D. NAIK, J.
DATE : 21 JULY, 2017**

P.C. :

1. This is an application for anticipatory bail. The offence is registered vide C.R. No.I-126 of 2017 with Nizampura Police Station, Bhiwandi for offence under section 354(D) relates to offence of stalking.

2. Learned advocate for the applicant submitted that reading the provisions of section 354(D) as defined under IPC and the punishment provided for the said offence, it is apparent that the offence is punishable with three years. As per clause (2) of the said provision, it is categorically stated that "*Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.*"

3. There is no conviction against the applicant. As provided in the schedule of the code of Criminal Procedure, the offence under section 354(D) is enumerated as bailable offence. Learned advocate for the applicant, however, submitted that the provision is always misinterpreted by law enforcing agency and therefore there is apprehension of arrest.

4. Since as categorized in schedule enumerated in Cr.P.C. with regards to classification of offences, the offence under section 354(D) is categorized as bailable offence. Therefore, execution of powers under section 438 of Cr. P.C. is not warranted. The application is therefore not maintainable and stands disposed of.

5. Application stands disposed of.

[PRAKASH D. NAIK, J.]