

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 291 OF 2021

Ruksar w/o Salman Khan,
Age : 29 years, Occu. Household work,
R/o 6255, Behind Rang Bhawan,
Vhinsenpura, Sarjepura,
Ahmednagar, District Ahmednagar

APPLICANT

VERSUS

The State of Maharashtra,
through its Investigation Officer,
Tofkhana Police Station,
Ahmednagar, Dist. Ahmednagar

RESPONDENT

Mr. N.B. Narwade, Advocate for the applicant
Mr. V.S. Badakh, A.P.P. for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 15.06.2021

PER COURT :

In the peculiar facts and circumstances, the applicant, who happens to be a married lady, is being charged for the offences punishable under Sections 354-D, 504, 506 read with Section 34 of the Indian Penal Code, as also for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act"). Apprehending her arrest in connection with Crime No.84 of 2021, registered with Tofkhana Police Station, Ahmednagar for the offences

under the aforesaid provisions, she is now seeking bail under Section 438 of the Code of Criminal Procedure.

2. I have heard the learned Advocate for the applicant and the learned A.P.P. and perused the papers of investigation, particularly the statement of the victim recorded under Section 164 of the Code of Criminal Procedure.

3. The FIR has been lodged by a girl aged 16 years inter alia alleging that the applicant was persistently threatening and insisting her to have an affair with the co-accused, who incidentally also happens to be a boy aged 16 years.

4. Apparently, the offence punishable under Section 354-D of the IPC cannot be attracted against the applicant who herself is a woman.

5. So far as the other offences under the IPC are concerned, those are bailable.

6. Coming to the offence punishable under Section 12 of the POCSO Act, it appears that at the most, the applicant could be charged invoking Section 17 of that Act, which makes abetment of an offence under that Act punishable with the same punishment as is provided for the substantive offence. There are no allegations about the applicant having instigated her brother – co-accused to have the affair with the victim. Rather,

it is the version of the victim in the FIR as well as in her statement recorded under Section 164 of the Code of Criminal Procedure that the applicant was threatening and insisting her to have relations with her brother.

7. Apart from the above state-of-affair, the applicant is a married woman, who has been granted ad-interim protection on 18.03.2021 subject to usual terms and conditions, inter alia requiring her to remain present before the Investigating Officer as and when required by him. There are no allegations about the applicant having breached this condition. It is, therefore, apparent that for more than two and half months, she has been enjoying the ad-interim protection, which, in the peculiar facts and circumstances, deserves to be confirmed with the same terms and conditions.

8. The application is allowed. The ad-interim anticipatory bail granted by order dated 18.03.2021 stands confirmed with the same terms and conditions.

[MANGESH S. PATIL]
JUDGE

