

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

ANTICIPATORY BAIL APPLICATION NO. 199 OF 2019

Mohammed Sadik Irshad Ahmed ... Applicant

Versus

The State of Maharashtra ... Respondent.

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Mr. Mateen A. R. Shaikh, Advocate for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 18th MARCH, 2021

PER COURT:

1. This is an application for anticipatory bail in CR No. I-297 of 2018 registered with Shanti Nagar Police Station, Bhiwandi, Thane for the offences punishable under Sections 345(A), 354(D), 384, 385, 386, 500 503,504, 506, 507 of Indian Penal Code and Sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). FIR was lodged on 2nd October, 2018.

2. Complaint was lodged by the victim on 2nd October, 2018. It is alleged that in June 2015, applicant used to call complainant repeatedly. In August, 2015, sister of complainant had questioned applicant for making repeated calls to complainant. On the next day the applicant accosted complainant's sister and pulled

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her and assaulted her. Complaint was registered by sister of complainant vide C.R. No. I-346 of 2015 under Section 354A, 504, 323 of Indian Penal Code. In September, 2015, complainant was called at toll naka. She went to said place. She was told to write on stamp paper that complaint filed by sister is withdrawn. She executed writing. Thereafter, applicant threatened them. In 2018 applicant look complainant to office of his friend. She was forced to sign on paper. Thereafter she was threatened to sign Nikahnama. She was forced to sign it. The accused sent objectionable photograph of complainant on whats-app to her father. Sister of complainant was forced to record video.

3. Learned counsel for the applicant relied upon the Nikah Nama and contended that the said document was executed in the presence of witnesses. He relied upon the affidavit executed by both the parties which as Exh. Nos. 17 and 19 of this application. According to the applicant, the marriage was solemnized with the complainant. However, the family of the complainant is against the marriage and therefore false case has been registered against the applicant.

4. The applicant was granted interim protection vide order dated 30th January, 2019. Learned counsel for the applicant submitted that the applicant had complied the directions of reporting

the Police Station. The applicant had performed the marriage with the complainant but the same was not accepted by her family. Custodial interrogation of the applicant is not necessary.

5. Learned APP submitted that previously the complaint was filed by the complainant against applicant with similar allegations. However, the applicant was tried for the said offences and he has been acquitted. The victim had performed marriage with applicant. Considering the factual aspects of the case, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No.199 of 2019, is allowed;
- (ii) The interim order dated 30th January, 2019 is hereby confirmed.
- (iii) In the event of arrest of the applicant in connection with CR No. I-297 of 2018 registered with Shanti Nagar Police Station, Bhiwandi, Thane, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- (iv) The applicant shall attend the investigating officer as and when called for;
- (v) The applicant shall not approach the complainant or shall not cause any harassment to her.

(vi) The applicant shall not enter into the vicinity of place of residence of complainant till conclusion of the trial.

(vii) In the event of breach of conditions of anticipatory bail, complainant or prosecution will be at liberty to prefer application for cancellation of bail.

(viii) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)