

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1543 OF 2021

Arbaz Khajabhai Inamdar .. Applicant
Versus
The State of Maharashtra .. Respondent

...

Mr. Mohammad S. Mulla for the applicant.
Mr.A.R. Kapadnis, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 9th JULY 2021

P.C:-

1 The applicant is seeking protection from arrest in C.R. No206 of 2021 registered with Jail Road Police Station, Solapur. The applicant has approached this Court. The said C.R. invoke offence punishable under Sections 354, 354D, 506 and 509 of the IPC and Section 8 and 12 of the POCSO Act, 2012.

2 The applicant is a young boy aged 21 years whereas the victim is 17 years. The victim lodged a complaint stating that she is taking education in 11th Standard and the applicant is the son of her relative and he is stalking her for last three years, and she also allege that he has expressed that he like her and he is interested in performing marriage with her and if she resist in any manner, he threaten her with dire consequences. She had narrated the incident to her mother and with the help of some

elders, he was asked to desist from such an act. The complainant allege that from last three to four days, when the complainant came out in the gallery of her Apartments, he indulged himself in the act of obscene gestures, by standing on the road in an attempt to lure her. This resulted into filing of the complaint.

3 Learned counsel for the applicant state that he is in love with the victim girl and is desirous of marrying her. Of course, this is a contingency which cannot be fulfilled now, the girl being minor. If the boy is desirous in marrying the victim girl, he is expected to behave in a dignified way and surely he will not be able to convince her to marry him by indulging into such acts which he is alleged of by uttering words or gestures which would insult the modesty of a woman. For his alleged act, offence punishable under Section 509 IPC is invoked along with Section 354, 354D, 506 read with Section 8 and 12 of the POCSO Act, 2012.

4 Prima facie, as far as Section 354 is concerned, prima facie, there is no assault or criminal force applied and the said section is not attracted. As far as Section 354D is concerned, the complainant categorically state that the applicant was stalking her for last 3 to 4 years but she did not make any complaint for all these years. The only offence with which the applicant could be charged is Section 509 IPC which is punishable with Simple

Imprisonment for a term which may extend to three years. He can also be held liable for sexual harassment in terms of Section 11 of the POCSO Act and for committing the said offence, Section 12 prescribe punishment which may extend upto three years and liable for fine. In any event, the offence with which the applicant is charged, is the maximum penalty prescribed with three years.

5 Taking a view of the factual narration and the nature of the complaint, the custodial interrogation of the applicant is not warranted but, at the same time, the applicant cannot continue to deal with the victim girl in a manner amounting to outrage her modesty. The applicant himself undertake that if he is released on bail, he will not enter in the area where the victim girl is residing, being Telangi Paccha Peth, Solapur and he would remove himself from the said area. Subject to the said undertaking and compliance of the same, the applicant is entitled to be released on bail in the event of his arrest.

ORDER

- (a) Application is allowed.
- (b) In the event of his arrest, the Applicant Arbaz Khajabhai Inamdar in connection with C.R. No.206/21 registered with Jail Road Police Station, shall be released on bail on furnishing P.R. bond to

the extent of Rs.20,000/- with one or two sureties of the like amount.

- (c) The applicant shall not enter the area where the victim girl is residing.
- (c) The applicant shall report to the concerned police station as and when called for.
- (d) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

SMT. BHARATI DANGRE, J