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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2790 OF 2021

SHABANA SHAKEEL SHAIKH

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. Arun Rajput a/w Shabnam Shaikh advocate for the applicant
Smt. Rutuja Ambekar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: SEPTEMBER 28, 2021.

P.C.:

1] Applicant is seeking bail in C.R. No. 95/2021 registered with N. M. Joshi Marg Police Station for offence punishable under Sections 376(3), 506 of the Indian Penal Code and under Sections, 4, 6, 8, 10 & 12 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 9 & 10 of the Prevention of Child Marriage Act, 2006.

2] The allegations of the prosecution against the applicant are,

victim girl aged about 13 years was forced to perform marriage and as such, provisions of POCSO Act, IPC and Child Marriage Act are invoked.

3] Submissions of learned counsel for the applicant are, evidence on record does not satisfy necessary ingredients about offence punishable under the provisions of POCSO Act and IPC. Even if it is presumed that applicant is involved in the offence under the provisions of Section 10 of the Prevention of Child Marriage Act, maximum punishment provided is two years.

4] Learned APP opposed the application on the ground that testimony of the victim speaks of involvement of the applicant in the crime in question.

5] Perusal of medical reports which are placed on record does not speak of substantiating allegations of aggravated sexual assault against the applicant or other accused persons. Rather in the evidence available on record, there is no material to infer for invoking

provisions of Section 376(3) of the IPC and provisions of POCSO Act. Even if the applicant is proceeded under Section 10 of Prevention of Child Marriage Act, maximum punishment provided is two years. There are no criminal antecedents.

6] Applicant deserves to be released on bail on following conditions:

(i) Applicant be released on bail in C.R. No. 95/2021 registered with N. M. Joshi Marg Police Station for offence punishable under Sections 376(3), 506 of the Indian Penal Code and under Sections, 4, 6, 8, 10 & 12 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 9 & 10 of the Prevention of Child Marriage Act, 2006 upon furnishing P.R. bond in the sum of Rs. 15,000/- with one or more sureties in the like amount.

(ii) Applicant shall not influence the prosecution witnesses in any manner or tamper with the evidence.

(iii) In case if the applicant directly or indirectly

influence or contacts the victim girl, prosecution or the Court below are at liberty to take out proceedings for cancellation of bail.

7] Application stands disposed of.

[NITIN W. SAMBRE, J.]